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GOVERNMENT GAZETTE

BOLETIM OFICIAL

SUPPLEMENT

(SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Notification

DF-2-COP-63

In exercise of the powers conferred on him under section 165(1) of the Maharashtra Cooperative Societies, Act 1960, as applied to the Union Territory of Goa, Daman and Diu, read with section 6(1) (b) of the Goa, Daman and Diu (Laws) Regulation 1962, the Lieutenant Governor of Goa, Daman and Diu makes the following rules for carrying out the purposes of the Act in respect of the Societies established in the Union Territory of Goa, Daman and Diu, in accordance with the provisions of the said Act and appoints the 26th day of January, 1963 as the date on which they shall come into force in the Union Territory of Goa, Daman and Diu.

CHAPTER I

Preliminary

1 — Short title and extent — (1) These rules may be called the Co-operative Societies Rules, 1962 for the Union Territory of Goa, Daman and Diu.

(2) They extend to the whole of the Union Territory of Goa, Daman and Diu.

2 — Definitions — In these rules, unless the context otherwise requires, —

(a) «Act» means the Maharashtra Co-operative Societies Act, 1960; as applied to the Union Territory of Goa, Daman and Diu.

(b) «co-operative year» means the year ending on the 30th day of June or, in the case of any society or class of societies, the accounts of which are with the previous sanction of the Registrar, balanced on any other day, the year ending on such day;

(c) «decree holder» means any person holding a decree;

(d) «form» means a form appended to these rules;

(e) «Record of Rights» means, —

I) the record of rights maintained under the law for the time being in force;

(f) «recovery officer» means any person empowered to exercise in any district, the powers of the Registrar under section 156;

(g) «registered society» means a society registered or deemed to be registered under the Act;

(h) «sale officer» means an officer empowered by the Registrar, by general or special order, to attach and sell the property of defaulters or to execute any decree by attachment and sale of property;

(i) «section» means a section of the Act;

(j) «Govt.» means the Central Govt. and includes the Lieutenant Governor of the Union Territory of Goa, Daman and Diu;

(k) «Union Territory» means the Union Territory of Goa, Daman and Diu;

(l) «Court» means Tribunal or any Court as may be established;

(m) words and expressions not defined in these rules but defined in the Act shall have the meaning assigned to them in the Act.

CHAPTER II

Registration

3—Designation of persons appointed to assist Registrar—Persons appointed to assist the Registrar under section 3 may be designated as the Additional Registrars, Joint Registrars, Deputy Registrars or Assistant Registrars.

4—Application for Registration—(1) Every application for registration of a society under sub-section (1) of section 8 shall be made in Form «A», in Konkani, Hindi, Marathi, Guzerathi or English, and shall, subject to the provisions of sub-rules (2) and (3), be duly signed by the applicants, and be accompanied by—

- (a) four copies of the proposed by-laws of the society,
- (b) a certificate, from the bank or banks stating the credit balance in favour of the proposed society therein,
- (c) a list of persons who have contributed to the share capital, together with the amount contributed by each of them, and the entrance fee paid by them,
- (d) the scheme showing the details explaining how the working of the society will be economically sound and, where the scheme envisages the holding of immovable property by the society, the description of immovable property proposed to be purchased, acquired or transferred to the society, and
- (e) such other documents as may be specified in the model by-laws, if any, framed by the Registrar.

(2) Where any member of a society to be registered is a registered society, a member of the committee of such registered society shall be authorised by the committee by a resolution to sign the application for registration and the by-laws on its behalf, and a copy of such resolution shall be appended to the application.

(3) Where any member of a society to be registered is a firm, company, corporate body, society registered under Societies Registration Act, or any other law in force or public trust registered under any law for the time being in force relating to registration of public trusts, or a local authority, then such firm, company, corporate body, society, public trust or local authority shall duly authorise any person to sign the application for registration and the by-laws on its behalf, and a copy of the resolution giving such authority shall be appended to the application.

(4) The application shall be sent to the Registrar by registered post or delivery by hand.

5—Registration—(1) On receipt of an application under rule 4 and after scrutinising that it is correct in all respects, the Registrar shall enter particulars of the application in the register of applications to be maintained in Form «B», give a serial number to the application and issue a receipt in acknowledgement thereof.

(2) The Registrar may give, wherever necessary, opportunity to the promoters to modify the proposed by-laws before finally registering the society or rejecting the application for registration of the society.

(3) On registering a society and its by-laws under sub-section (1) of section 9, the Registrar shall as soon as may be, notify the registration of the society in the Goa, Daman and Diu Gazette and grant to the society, a certificate of registration signed by him and bearing his official seal and containing the registration number of the society, and the date of its registration. The registrar shall also furnish the society with a certified copy of the by-laws approved and registered by him.

6—Form of report under section 9 (2)—The report to be made by the Registrar to the Government of the Union Territory under sub-section (2) of section 9 shall be in Form «C».

7—Refusal of Registration—Where any society does not furnish the information in regard to the society as required by the Registrar or fulfil any of the conditions laid down in the Act or these rules, the Registrar may refuse to register that society.

8—First by-laws of a society—When a society has been registered the by-laws of the society as approved and registered by the Registrar shall be the by-laws of the society.

9—Classification and sub-classification of societies—(1) After registration of a society, the Registrar shall classify the society into one or other of the following classes and sub-classes of societies prescribed below according to the principal object provided in its by-laws:—

Class	Sub-class	Examples of societies falling in the class or sub-class, as the case may be
1	2	3
1. Agricultural Marketing Society.	—	All Purchase and Sale Unions and Marketing Societies of Agricultural Produce.
2. Consumers' Society.	—	Stores and Canteens.
3. Co-operative Bank.	(a) Central Bank.	District Central Banks, Land Development Banks having provisions in their by-law to advance loans to Co-operative Societies.
	(b) Other Banks.	Urban Banks, Salary Earners Societies.
4. Farming Society.	(a) Collective Farming Society.	Farming societies where major area of lands is acquired from outside agency for cultivation by members.
	(b) Joint Farming Society.	Societies where the major area of land brought together for cultivation is held by members.
5. Housing Society.	(a) Tenant Ownership Housing Society.	Housing Societies where land is held either on lease-hold or free-hold basis by societies and houses are owned or are to be owned by members.

Class	Sub-class	Examples of societies falling in the class or sub-class, as the case may be
1	2	3
	(b) Tenant Co-partnership Housing Society.	Housing Societies which hold both land and buildings either on lease-hold or free-hold basis and allot them to their members.
	(c) Other Housing Societies.	House Mortgage Societies and House Constructions Societies.
6. Processing Society.	(a) Agricultural Processing Society.	Societies, which process agricultural produce like Co-operative Sugar Factories and Oil Mills.
	(b) Industrial Processing Society.	Wool Processing and Tanners' Societies.
7. Producers' Society.	(a) Industrial Producers' Society.	Weavers' and Carpenters' Societies.
	(b) Labourers' Industrial Society.	Forest Labourers' Societies and Labour Contract Societies.
	(c) Agricultural Producers' Society.	Cattle Breeding and Dairy Societies.
8. Resource Society.	(a) Credit Resource Society.	Agricultural Credit, Thrift and Urban Credit Societies.
	(b) Non-Credit Resource Society.	Seeds and Implements and Agriculture Requisites Societies.
	(c) Service Resource Society.	Service Co-operatives and Multi-purpose Co-operative Societies.
9. General Society.	(a) Social.	Better Living Societies and Education Societies.
	(b) Commercial.	Insurance and Motor Transport Societies.
	(c) Others.	Not falling in either of the above sub-classes.

(2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue to the Society a copy of his order as in the case of an amendment of the by-laws.

10 — Maintenance of register — (1) The register to be maintained by the Registrar under sub-section (4) of section 9 shall be in Form «D».

(2) The Registrar shall divide the register into parts, one for each district in the Union Territory. A society shall be registered in that part a district in which its head office is situated.

(3) The Registrar shall assign for each district and each class or sub-class of societies, a code symbol, for giving registration numbers to the societies and the societies shall be registered from the dates specified by him.

11 — Amendment of by-laws — (1) Subject to the provisions of this rule, by-laws of a society may be amended by passing a resolution at a general meeting of the society held for that purpose.

(2) The society shall give due notice in accordance with its by-laws to all the members for considering any amendment thereof.

(3) An amendment shall be deemed to have been duly passed, if a resolution in that behalf is passed at a general meeting by not less than two-thirds of the members present thereat, and voting.

(4) After the resolution is passed, a copy thereof shall, within a period of two months from the date of the meeting at which the resolution was passed, be furnished to the Registrar along with.

(a) a copy of the relevant by-laws in force with amendments proposed to be made in pursuance of the resolution, together with reasons justifying such amendments.

(b) four copies of the text of the by-law as it would stand after amendment, signed by the officers duly authorised in this behalf by the committee of the society.

(c) a copy of the notice given to the members of the society of the proposal to amend the by-law.

(d) such other information as may be required by the registrar.

(5) On receipt of a copy of the resolution and other particulars referred to in sub-rule (4), the registrar shall examine the amendment proposed by the society and if he is satisfied that the amendment is not contrary to the Act or the rules and is in the interest of the society and co-operative movement, he may register the amendment and issue to the society a copy of the amendment certified by him under sub-section (2) of section 13. Where the Registrar is of opinion that the proposed amendment may be accepted subject to any modification, he may indicate to the society such modification after explaining in writing his reasons therefor.

12 — Change in name of society — (1) The name of a society may be changed under section 15 so however that it does not refer to any caste or religious denomination and is not inconsistent with the objects of society.

(2) Every change in the name of a society shall be made by an amendment of its by-laws and shall be notified in the Goa, Daman and Diu Gazette.

(3) After the change in the name is approved by the Registrar, the society shall send the original registration certificate for amendment to the Registrar, who shall return the same to the society duly amended.

(4) The Registrar shall enter the new name in the register of societies maintained by him.

13 — Change of liability — (1) The change of liability of a society from unlimited to limited, and vice versa or in terms of multiple of share capital, shall be secured by passing a resolution in that behalf at a general meeting of the society indicating in clear terms the manner of changing the liability. The society shall give thirty days' notice in writing of such meeting to all its members and creditors and shall furnish them with copies of the resolution proposed to be moved at the meeting. After the resolution is duly moved and passed a copy thereof shall be sent to the Registrar within thirty days of its passing.

(2) Every notice to be given by the society under sub-section (2) of section 16 shall be sent by post under certificate of posting or otherwise to the address of each of its members and creditors as recorded

in the books of the society. A copy of such notice shall be exhibited on the notice board of the society and a copy shall also be sent to the Registrar for exhibition on the notice board in his office, and thereupon, notice of the resolution to change the form or extent of its liability shall be deemed to have been duly given to all its members and creditors, notice not being sent to their correct address or notice not being received by them, notwithstanding.

(3) For the purpose of determining the claims of a member under clause (b) of sub-section (4) of section 16 the value of a share of a member in a society shall be ascertained as follows:

- (a) In the case of a society with unlimited liability the value of a share shall be actual amount received by the society in respect of such share.
- (b) In the case of a society with limited liability, the value of a share shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet, provided that it shall not exceed the actual amount received by the society in respect of such share.

(4) Any member or creditor desiring to exercise his option under sub-section (2) of section 16 shall inform the society accordingly in writing, and when he does not propose to withdraw his entire shares or deposits, the member or creditor shall clearly indicate in writing the extent of his withdrawal. The society shall examine and draw up a scheme for orderly payment of all claims in an equitable manner including shares, the value of which shall be ascertained in accordance with the provisions of sub-rule (3). The Scheme may also provide for settlement of claims by mutual agreement. Where the Registrar does not approve the scheme on the ground of impracticability or undesirability, the resolution passed by the society under sub-rule (1) shall be ineffective, and the form and extent of liability of a society shall not be deemed to be changed in accordance with resolution passed aforesaid.

(5) After the Registrar approved the scheme, the society shall make payments to members and creditors as provided in clause (b) of sub-section (4) of section 16, make a report to that effect to the Registrar and furnish the Registrar with a proposal to amend the by-laws of the society duly passed in that behalf. On receipt of the proposal, the Registrar shall register the amendment in accordance with the provisions of section 13.

14 — Amalgamation, transfer of assets and liabilities, division or conversion of societies—(1) Every society desiring to effect amalgamation, transfer of assets and liabilities, division or conversion shall make an application to the Registrar in that behalf, giving full details about such amalgamation, transfer, division or as the case may be, conversion.

(2) On receipt of such application, the Registrar may, after examining the details furnished in the application and other particulars which he may call upon the society to furnish, give his approval to the amalgamation, transfer, division or conversion if he considers such amalgamation, transfer, division or conversion, as the case may be, to be in the interest of the society.

(3) After the receipt of Registrar's approval under sub-rule (2) the society shall convene a special general meeting by giving notice of at least 15 clear

days to all its members and creditors and pass a resolution for amalgamation, transfer of assets and liabilities, division or conversion, as the case may be, by two third majority of the members present and voting at the meeting. The resolution so passed shall contain the purpose and the full scheme indicating how the proposed amalgamation, transfer or division or conversion would be useful to the society and be given effect to. Where the scheme does not involve transfer of liabilities of the society to another society, a statement to that effect shall be made in the application to be made under sub-rule (1). Where the scheme involves transfer of liabilities of the society, the society shall give written notice in Form «E» to all its members, creditors and other persons whose interests are likely to be affected by such transfer. The notice shall also be published in at least one newspaper in circulation in the district in which the society's office is situated and a copy thereof shall be exhibited on the notice board in the society's and Registrar's office.

(4) Within one month from the date of notice referred to in sub-rule (3), the members, creditors and other persons whose interests are likely to be affected by the transfer of the society's liabilities may exercise their option as required by clause (i) of the proviso to sub-section (1) of section 17 failing which they shall be deemed to have assented to the transfer of liabilities of the society to another society.

(5) The society shall meet in full or otherwise satisfy all claims of members and creditors and other interested persons who exercise the option.

(6) The society shall submit a report to the Registrar of the action taken by it and request him to give effect to its decision for amalgamation, transfer, division or conversion by registering the amalgamated or converted society or the new society, as the case may be, and cancelling the registration of the societies which have been amalgamated, divided or converted.

(7) On receipt of the report from the society under sub-rule (6), the Registrar shall, after satisfying himself that the procedure has been properly followed, register the amalgamated, divided or converted societies and cancel the registration of the societies which have been amalgamated, divided or converted.

15 — Reconstruction of a Society — (1) An application for reconstruction of a society under section 19 may be made in Form «F». On receipt of such application the Registrar may, taking into consideration the compromise or arrangement for reconstruction of the society, if he thinks fit, prepare a draft order indicating:—

- (i) the manner in which the amounts payable by the society to its creditors should be paid and the amounts recoverable from its debtor members should be recovered,
- (ii) the manner in which the share capital, if any, of such members should be reduced,
- (iii) the manner in which the scheme of reconstruction should be implemented, and
- (iv) the manner in which the by-laws of the society will stand amended in order to give effect to the scheme of reconstruction.

A copy of the draft order shall be exhibited on the notice board of the society and a copy thereof shall

be exhibited on the notice board of the Registrar's office inviting objections and suggestions from all those interested within a specified time, which shall not exceed one month.

(2) After taking into consideration the objections and suggestions (if any) received, the Registrar may issue an order approving such reconstruction or staying further proceedings in respect of such reconstruction. On issue of an order approving the reconstruction, the society shall stand reconstructed and the by-laws of the society shall be modified to that effect and to that extent.

CHAPTER III

Members and their rights and liabilities

16 — Conditions to be complied with for admission for membership, etc. — No person shall be admitted as a members of a society unless,

- (i) he has applied in writing in the form laid down by the society or in the form specified by the Registrar, if any, for membership;
- (ii) his application is approved by the committee of the society in pursuance of the powers conferred on it in that behalf and subject to such resolution as the general body of members may in pursuance of the powers conferred on it in that behalf from time to time pass, and in the case of nominal associate or sympathiser member, by an officer of the society authorised in that behalf by the committee;
- (iii) he has fulfilled all other conditions laid down in the Act, the rules and the by-laws;
- (iv) in case of a firm, company or body corporate, society registered under the Societies Registration Act, 1860 or any other law for the time being in force, a public trust registered under any law for the time being in force relating to registration of public trusts or a local authority, the application for membership is accompanied by a resolution authorising it to apply for such membership.

17 — Procedure for admission of joint members and minor and persons of unsound mind inheriting the share or interest of deceased member. — (1) A Society may admit joint members provided they make a declaration in writing that the person whose name stands first in the share certificate shall have the right to vote and all the liabilities will be borne jointly and severally by them as provided in the Act, rules and by-laws.

(2) In accordance with the procedure laid down in its by-laws and these rules for admission of any member, a society may admit minors and persons of unsound mind inheriting share or interest of deceased members as its members through their legal representatives or guardians, respectively. The members so admitted will enjoy such rights and liabilities through such legal representatives or guardians as are laid down in the by-laws of the society that are consistent with the Act and Rules, made thereunder.

18 — Withdrawal of Membership. — (1) Subject to the provisions of the Act, the rules and the by-laws of the society, a member may withdraw from the

society after giving three months' notice to the Secretary of the society of his intention to resign his membership of the society.

(2) No resignation of a membership shall be accepted by the society unless the member has paid in full, his dues, if any, to the society and has also cleared his liability, if any, as surety to any other member or otherwise.

(3) The withdrawal from membership shall also be subject to such restrictions regarding the maximum amount of share capital that can be refunded in a year or as may have been provided for in the Act, the rules or by-laws of the society.

(4) Any member, whose resignation has been accepted by the society, or any heir or legal representative of a deceased member, may demand refund of the share capital held by such member or deceased member and the society shall, subject to the provisions of sub-section (3) of section 29 and subject to the provisions of the by-laws, refund the amount within six months from the acceptance of the resignation or, as the case may be, the date of demand made by the heir or legal representative of the deceased member.

(5) In all cases where share capital is to be refunded, valuation of the shares to be refunded shall be made in accordance with the provisions contained in rule 23.

19 — Voting rights of individual members in a Federal Society. — (1) In the case of federal societies, the voting rights of individual members (which term shall include firm, company or body corporate, society registered under relevant Registration Act for the time being in force, State Government, local authority, and public trust registered under any law for the time being in force relating to registration of public trusts but shall not include a society), may be regulated as follows:

- (a) Immediately after the 30th June of every year and as soon as possible before the annual general meeting, individual members admitted to membership upto the 30th June of the preceding year (hereinafter referred to as «the relevant date»), shall elect delegates equal to one-fourth of the number of societies admitted to membership upto the relevant date or one delegate for every twenty-five individual members (fractions being neglected) whichever is less. The delegates so elected will continue in office till their successors are elected after 30th June next.
- (b) Every society through its properly authorised representative and every delegate referred to in clause (a) above shall have one vote in the general meeting.
- (c) The quorum for the meeting shall be one-fifth of the total number of delegates and representatives of the societies or 25 whichever is less.
Provided that the delegates shall not at any time in the meeting exceed one-fourth of the number of representatives of the societies.
- (d) The election of delegates shall be held in accordance with the provisions of the by-laws.
- (e) Any vacancy of a delegate caused on account of cessation of membership shall be filled by the delegates by co-opting one of the individual members.

(2) Unless otherwise provided by the Registrar in respect of any particular society, the delegates on the committee or the Board of Directors, as the case may be, shall not at any time exceed one third of the number of representatives of societies (fraction being neglected).

20 — Valuation of Shares — (1) Where a member of society ceases to be a member thereof, the sum representing the value of his share or interest in the share capital of the society to be paid to him or his nominee, heir or legal representative, as the case may be, shall be ascertained in the following manner, namely:

- (i) In the case of a society with unlimited liability, it shall be the actual amount received by the Society in respect of such share or interest;
- (ii) In the case of a society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet preceding the cessation of membership:
Provided that the amount so ascertained shall not exceed the actual amount received by the society in respect of such share or interest.

(2) Where a person is allotted a share by a society, the payment required to be made therefor shall not exceed the face value of the share notwithstanding anything contained in the by-laws of the society.

(3) When a share is transferred by a member to another member duly admitted as a member of a society, the transferee shall not be required to pay anything in excess of the value of the share determined in accordance with sub-rule (1).

21 — Procedure for transfer of shares — (1) No transfer of shares shall be effective unless, —

- (a) it is made in accordance with the provisions of the by-laws;
- (b) a clear fifteen days' notice in writing is given to the society indicating therein the name of the proposed transferee, his consent, his application for membership, where necessary, and the value proposed to be paid by the transferee;
- (c) all liabilities of the transferor due to the society are discharged; and
- (d) the transfer is registered in the books of the society.

(2) Any charge in favour of the society on the share so transferred will continue unless discharged otherwise.

22 — Nomination of Persons. — (1) For the purpose of transfer of his share or interest under sub-section (1) of section 30, a member of a society may, by a document signed by him or by making a statement in any book kept for the purpose by the society, nominate any person or persons. Where the nomination is made by a document, such document shall be deposited with the society during the member's life time and where the nomination is made by a statement, such statement shall be signed by the member and attested by one witness.

(2) The nomination made under sub-rule (1) may be revoked or varied by any other nomination made in accordance with that sub-rule.

(3) (i) Where a member of a society has not made any nomination, the society shall, on the member's death, by a public notice exhibited at the office of the society, invite claims or objection for the proposed transfer of the share or interest of the deceased within the time specified in the notice.

(ii) After taking into consideration the claim or objections received in reply to the notice or otherwise, and after making such inquiries as the committee considers proper in the circumstances prevailing, the committee shall decide as to the person who in its opinion is the heir or the legal representative of the deceased member and proceed to take action under section 30.

23 — Registration of nominations. — The name and address of every person nominated for the purposes of sub-section (1) of section 30 and any revocation or variation of such nomination shall be entered in the register kept under rule 29.

24 — Supply of copies of documents by societies and fees therefor. — (1) A member of a society requiring a copy of any of the documents mentioned in sub-section (1) of section 32, may apply to the society for the same. Every such application shall be accompanied by a deposit of such amount as may be decided by the committee, for recovering the cost of preparing the copies according to the following scale, namely: —

for every 200 words or less —

Portuguese	0-15 n. p.
English	0-15 n. p.
Other language	0-15 n. p.

On receipt of the deposit, the society shall issue a receipt for the same.

(2) Where the copies are prepared, the amount due from the member according to the scale laid down in sub-rule (1), shall be retained by the Society as copying fees and the surplus amount, if any, remaining out of the deposit shall be refunded to the member at the time of supplying copies. Where the amount deposited by the member is found to be insufficient to cover the copying fees, the member shall be called upon to pay the deficit before taking delivery of the copies.

(3) The copies shall be certified and signed as true copies by any person duly authorised in this behalf by the committee or under the by-laws of the society.

25 — Expulsion of members. — Any member who has been persistently defaulting payment of his dues or has been failing to comply with the provisions of the by-laws regarding sales of his produce through the society or, other matters in connection with his dealings with the society or who, in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interest or proper working of the society may, in accordance with the provisions of sub-section (1) of section 35, be expelled from the society. Expulsion from membership may involve forfeiture of shares held by the member.

26 — Procedure for Expulsion of Members. — (1) Where any member of a society proposes to bring a

resolution for expulsion of any other member he shall give a written notice thereof, to the Chairman of the society. On receipt of such notice or when the committee itself decides to bring in such resolution, the consideration of such resolution shall be included in the agenda for the next general meeting and a notice thereof shall be given to the member against whom such resolution is proposed to be brought, calling upon him to be present at the general meeting, to be held not earlier than a period of one month from the date of such notice and to show cause against expulsion to the general body of members. After hearing the member, if present, or after taking into consideration any written representation which he might have sent, the general body of members shall proceed to consider the resolution.

(2) When a resolution passed in accordance with sub-rule (1) is sent to the Registrar or otherwise, brought to his notice, the Registrar may consider the resolution and after making such inquiries as he may deem fit, give his approval and communicate the same to the society and the member concerned. The resolution shall be effective from the date of such approval.

27 — Inspection of documents in the Registrar's office by members of societies and the scale of fees for supply of copies of documents. — A member of a society or any member of the public may inspect the following documents in the office of the Registrar, free of charge, and may obtain certified copies thereof, on payment of the following fees:

(i) Application for registration of a society.	12 each.
(ii) Certificate of registration	12 each.
(iii) By-laws of societies	12 per 200 words or less.
(iv) Amendment of by-laws of a society.	12 per 200 words or less.
(v) Order of cancellation of the registration of a society.	12 per 200 words or less.
(vi) Audit memorandum of a society.	12 per 200 words or less.
(vii) Annual balance sheet	12 per 200 words or less.
(viii) Order under section 88 ...	12 per 200 words or less.
(ix) Order referring a dispute for decision.	12 per 200 words or less.
(x) Order of supersession of a committee or removal of any member thereof.	12 per 200 words or less.
(xi) Any other order against which an appeal is provided.	12 per 200 words or less.

CHAPTER IV

Incorporation, Duties and Privileges of Societies

28 — Procedure for change of address of societies. — (1) Every society shall communicate in writing to the Registrar its postal address as indicated in its by-laws registered under the Act and wherever applicable mention the name of the district, taluka, tahsil, town or village, municipal ward or mohalla, street, house number and postal circle. While communicating the postal address of the society, the committee of the society shall also send a copy of a resolution passed by it for adoption of the address communicated to the Registrar.

(2) On receipt of the communication from the society under sub-rule (1), the Registrar shall register the address communicated by the society in a register to be maintained for that purpose and inform the society of such registration.

(3) Every change in its registered address shall be communicated by the society to the Registrar in the manner laid down in sub-rule (1). Any such change shall not be treated as registered unless, —

(i) It is indicated in the by-laws by amending them and the amendment so made is registered under the Act, and

(ii) The change is registered in the manner laid down in sub-rule (2).

(4) The registered address of a society or such change therein as may be registered, from time to time, shall be exhibited on the notice board of the society, immediately after registration.

29 — Register of Members. — The register of members to be kept by every society under sub-section (1) of section 38 shall be in Form «G».

30 — List of Members. — The list of members to be kept by every society under section 39 shall be in Form «H».

31 — Certified Copies of entries in books of societies. — For the purposes of section 40, copies of any entries referred to in that section may be certified by any officer of the society duly authorised in that behalf by the committee under the seal of the society.

32 — Conditions for borrowing by societies with limited liability. — (1) No society other than those referred to in rules 33 and 34 with limited liability shall, without the previous sanction of the Registrar, incur liability exceeding in total ten times the total amount of its paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

Provided that central banks, urban banks and producers' societies shall not, except with the previous sanction of the Registrar, incur liabilities exceeding twelve times the total of their paid up share capital, accumulated reserve fund and building fund minus accumulated losses.

Explanation. — In calculating the total amount of liability for the purposes of this sub-rule, in the case of any society or class of societies the by-laws of which permit borrowing or granting credit facilities on the pledge of agricultural produce or other goods, specified in that behalf by the Registrar, by general or special order, a sum equal to the amount borrowed by such society or class of societies, on the security of agricultural produce or other goods of such society or its members, shall be excluded from the amount of the actual liability under this rule.

(2) Any society may incur liabilities in excess of the limit specified in sub-rule (1) by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or borrowed as loans in excess of the said limit shall not be utilised in the business of the society but shall be invested in Government securities which in the case of Central Banks, shall be deposited with the Administration of the Union Territory and, in case of other co-operative banks, with the Central banks. No society shall borrow against such securities.

33 — Conditions for borrowing of Co-operative Banks established in Union Territory. — Except with the previous sanction of the Registrar, a Co-operative Bank in the Union Territory shall not

incur liabilities exceeding in total fifteen times the total amount of its paid up share capital, and all reserves minus accumulated losses, actual bad debts, if any, and overdue interest.

Provided that, the Bank may incur liabilities in excess of the aforesaid limit by receiving deposits or borrowing loans subject to the condition that the amount received as deposits or borrowed as loans in excess of the said limit shall not be utilised in the business of the Bank but shall be invested in Government securities which shall be deposited as directed by the Registrar. The Bank shall not borrow against such securities.

Explanation. — In calculating the total amount of liability for the purposes of this rule, a sum equal to the amount borrowed by the Bank on the security of agricultural produce or other goods of the members of the Bank shall be excluded from the amount of the actual liability under this rule.

34 — Conditions for borrowing of Land Development Banks. — Land Development Banks may incur liabilities not exceeding in total twenty times the total amount of their paid up share capital, accumulated reserve and building funds minus accumulated losses.

35 — Loans and deposits from non-members in unlimited liability Societies. — Every society with unlimited liability shall, from time to time, fix in a general meeting the maximum liability which it may incur in loans and in deposits from non-members. The maximum so fixed shall be subject to the sanction of the Registrar, who may at any time reduce it, for reasons to be communicated by him to the society in writing, and may specify a period not being less than four months, within which the society shall comply with his orders. No such society shall receive any loan or deposit from a non-member, which will make its liability to non-members exceed the limit sanctioned by the Registrar.

36 — Raising of funds by societies. — (1) Every society, which has a share capital, shall provide in the by-laws the maximum amount of such share capital, the number of shares into which it is divided, the class of shares, the face value of each share of each class and the rights and liabilities attaching to each class of shares and where the full amount of the share is not payable on allotment, the amount and the number of instalments in which it is required to be paid and such other incidental matters.

(2) Any society, which is authorised under its by-laws to raise funds by the issue of debentures and bonds may, with the prior sanction of the Registrar, frame regulations regarding the maximum amount to be raised by the issue of debentures and bonds, the class or classes of debentures and bonds, the face value of each debenture or bond, the date on which the debentures or bonds are to be redeemed, the rate at which interest is payable, the terms and conditions regarding transfer of debentures and bonds and other incidental matters.

(3) The total amount of debentures and bonds issued at any time together with the other liabilities incurred by the society shall not exceed the maximum amount which the society can borrow under the provisions of rule 32, 33, 34 or 35 as the case may be, and its by-laws.

37 — Additional conditions for raising funds by societies. — The Registrar may, by general or spe-

cial order, lay down such additional conditions as he deems fit, subject to which and the extent upto which any society or class of societies may receive deposits, issue debentures or raise loans from any creditor other than a Central Bank.

38 — Maintenance of liquid resources and distribution. — Every society which obtains any portion of its working capital by deposits shall, —

- (1) maintain such liquid resources and in such form as may be specified from time to time by the Registrar, and
- (2) utilise only such portion of its working capital in lending business and distribute its assets in accordance with such standards as may be specified from time to time by the Registrar.

39 — Regulation of loans to be granted by societies. — (1) In case of grant of loans against security of movable or immovable property, the lending society shall maintain such margin as the Registrar may, with the approval of the Apex Bank, by general or special order, direct from time to time with reference to different commodities, securities or classes of societies.

(2) In case of cash credit, the amount of loan shall not exceed such multiple of owned funds of the borrowing society as may be laid down by the Registrar with the approval of concerned financing agency from time to time.

(3) It shall be lawful for a society to grant loans without taking security of movable or immovable property if the purpose for which the loan given is considered production worthy or creditworthy and it reasonably expected that the loans will be repaid by the loanee. The Registrar may, with the approval of the Apex Bank, issue directions to societies to ensure that creditworthy purposes indicated above receive finance from the societies without any difficulties, on the one hand, and without being detrimental to the financial interest of the societies on the other.

(4) The Registrar may recognise a Central Bank as the Central Financing Agency which shall be primarily responsible for financing credit requirements of all creditworthy purposes through the concerned societies in its jurisdiction. On such recognition, such Bank shall be responsible for making all possible efforts to mobilise local resources for making loans available to the societies in its area. Such loans may be granted for creditworthy purposes, giving due importance to the production plans and requirements of various stratas of the producers and co-operative discipline with reference to linking up of credit with co-operative processing or co-operative marketing.

(5) Except with the general or special permission of the Registrar, the loan advanced to a member by a society or to a society by a Bank, shall be subject to such conditions as may be laid down by the Registrar, with the approval of the Apex Bank, including the maximum amount to be advanced and the period of repayment, both in regard to total advances to members and societies as also against different types of securities.

(6) No society shall carry on transactions on credit or sanction trade credit to its members or to non-members except in accordance with the general directions that may be issued by the Registrar in that behalf.

(7) In the matter of grant of loans to societies by Central Banks or to members by Primary societies, the Registrar may lay down with the approval of the Central Banks, the procedure regarding receiving applications, assessing credit needs, making inquiries in respect of the production programme for which such loan is required and the procedure for finally sanctioning the loan as also the rates of finance to be followed from year to year and the nature of inquiries to be made for the purpose of financing of different crops and imposition of certain conditions regarding proper utilisation of loan and sale of agricultural produce through specified co-operative organisation, before such finance is granted.

(8) The Registrar may with the approval of the Apex Bank by general or special order prohibit or regulate grant of loans by a Central Bank or a society where such grant is considered neither in the interest of the society nor in the interest of the development or co-operative movement on sound lines.

40 — Conditions to be complied with by members applying for loans. — (1) Every member of a society applying for a loan from the society shall be required to hold shares in such manner and in such proportion to the amount of loan applied for by him as may be specified in the by-laws of the society.

(2) Subject to the maximum limit specified in the by-laws, a loan to be granted to a member of a resource society and the period of its repayment shall be in accordance with the standard laid down by the Registrar in consultation with the Central Bank and the federal society. A loan in excess of the maximum amount may be granted to a member with the previous sanction of the Central Bank and the federal society to which the society is affiliated:

Provided that, where the amount of the loan exceeds twice the maximum limit contained in the by-laws, prior sanction of the Registrar shall also be obtained.

41 — Credit limits by non-credit societies. — (1) No society whose objects do not include grant of loan or financial accommodation to its members shall grant loans or sanction credit to any member without the sanction of the Registrar.

Provided that, any society which has, as one of its objects, supply of goods or services required by members for production purposes, may supply goods or provide services on credit against sufficient security on condition that the cost of the goods supplied or services provided shall be recoverable from the amount of the sale proceeds of the agricultural produce or other goods produced by the member.

(2) A consumer society may sell goods on credit to its members and other customers upto the extent of deposits received from them.

42 — Restrictions on borrowing from more than one credit society. — (1) Every person who is a member of more than one resource society (other than a Land Development Bank or a Central Bank or a marketing society) dispensing credit shall, if he has not already made, make a declaration in Form «I» that he will borrow only from one such society to be mentioned in the declaration and shall send a copy of such declaration duly attested to all societies of which he is or has become a member.

(2) Any person who continues to be a member of more than one such society without complying

with the provision of this rule shall be liable to be removed from the membership of any or all such societies upon receiving a written requisition from the Registrar to that effect.

Provided that, the society from which a person has borrowed may permit him to borrow from any other society of which he is a member to such extent and subject to such conditions as may be laid down by it.

(3) The Registrar, may, for reasons to be recorded in writing, exempt any person or persons from the operation of this rule or prohibit any person or persons from borrowing from more than one society, notwithstanding that permission of the society under proviso to sub-rule (2) has been obtained by him.

43 — Manner of recalling of loan. — (1) Notwithstanding anything contained in the agreement entered into with the borrowing member, the committee of a society shall be entitled, after giving a week's notice to such member, to recall the entire loan amount immediately, when it is satisfied that the loan given has not been applied for the purpose for which it was given or there has been breach of any of the conditions for grant of such loan.

(2) Nothing in this rule shall be deemed to preclude the Registrar from directing the society to recall a loan of his own motion, when it is brought to his notice that the loan given by the society has been misapplied or conditions thereof, have not been followed. The Registrar may make in the matter such inquiries as he may deem necessary and after giving a show cause notice to the society issue with the prior approval of the co-operative bank financing the society, necessary directions to the society. The directions issued by the Registrar in this respect shall be complied with by the society.

44 — Restrictions on transactions with non-members. — On the application of a member of any society or of his own motion, when it appears to the Registrar that it is necessary in the interest of the working of any particular society, to regulate or restrict transactions of such society with any non-members the Registrar shall after giving an opportunity to the society of being heard, issue such directions as he may consider necessary regulating or restricting such transactions.

45 — Form of declarations to be made by members borrowing loans from certain societies and conditions on which any change in favour of a society shall be satisfied. — (1) A declaration to be made under clauses (a) and (b) of section 48 shall be in Form «J».

(2) A register of such declarations shall be kept by the society in Form «K».

(3) A charge on any immovable property created by a member in favour of a society for amounts borrowed or likely to be borrowed by him, from time to time, shall, subject to the provisions of clauses (c) and (d) of section 48 continue in force till the person creating the charge ceases to be a member of the society.

(4) Where a member of a society creates a charge on his land or on his interest in any land as a tenant by declaration under section 48, the society may, if compelled to make use of such property for the recovery of the loan granted to such member against the security of such property or interest in the property utilise the whole or any

portion of such property which may be sufficient to satisfy the amount due with interest and any incidental expenses incurred in that connection.

(5) Where a charge is created by a member on his land or on his interest in any land as a tenant by declaration under section 48, the society shall record or cause to record such particulars of charge in the Record of Rights maintained by the village officers of the village where such property is situated. Such recording of the charge in the Record of Rights of the village shall be treated as a reasonable notice of such charge created under section 48.

CHAPTER V

Property and Funds of Societies

46 — Writing off of bad debts and losses. — All loans including interest thereon and recovery charges in respect thereof which are found irrecoverable and are certified as bad debts, by the auditor appointed under section 81, shall first be written off against the Bad Debt Fund and the balance, if any, may be written off against the Reserve Fund and the share capital of the society.

All other dues and accumulated losses or any other loss sustained by the society which cannot be recovered and have been certified as irrecoverable by the auditor may be written off against the Reserve Fund or share capital of the society.

Provided that —

(1) no bad debts or losses shall be written off without the sanction of the general body;

(2) Before any such bad debts or losses are so written off, the society, if it is affiliated and indebted to a Central Bank, shall first obtain the approval of that Bank in writing and also the approval of the Registrar. If the society is affiliated but not indebted to the Central Bank and in all other cases, it shall obtain the approval of the Registrar in writing. If the society itself is a Central Bank, approval of the State Co-operative Bank and the approval of the Registrar shall first be obtained.

Provided that, in case of societies classified as A and B at the time of last audit, no such permission need be taken if the bad debts are to be written off against the Bad Debt Fund specially created for the purpose.

Provided further that, the Registrar may while giving the approval, impose such conditions as to the recoupment of the Bad Debt Fund and restoration of part or whole of the amount written off against the Reserve Fund, from out of future profits as he deems fit.

47 — Appropriation of profits. — (1) The other purposes for which a society may appropriate its profits shall be education and enlightenment of the members of the society as also any co-operative or charitable purpose including relief to the poor, education, medical relief and advancement of any other general public utility, provided that the expenditure on such items does not exceed 10 per cent of the net profits.

(2) No bonus on shares shall be given over and above the dividend.

Explanation — Nothing in this rule shall prohibit giving of any bonus as contemplated in clause (4) of section 2.

48 — Amounts to be deducted by a society from its profits before arriving at its net profits. — In

addition to the sums referred to in subsection (1) of section 65, the following sums shall be deducted by a society from its profits before arriving at its profit for the purposes of sub-section (2) of section 65: —

- (i) Contribution, if any, to be made to any sinking fund or guarantee fund constituted under the provisions of the Act, these rules or by-laws of the society for ensuring due fulfilment of guarantee given by Government in respect of loans raised by the society.
- (ii) Provision considered necessary for depreciation in the value of any security, bonds or shares held by the society as part of its investments.
- (iii) Any provision required to be made for the redemption of share capital contributed by Government or by a federal society.

49 — Bonus and Dividend Equalization Fund —

(1) A society may create out of its net profits a fund to be called the Bonus Equalization Fund and a fund to be called the Dividend Equalization Fund.

(2) Except otherwise specifically authorised by the Registrar, the funds so created shall be utilised in accordance with the provisions of the by-laws of the society only for payment of bonus or dividend, as the case may be.

(3) A society may credit in any year a sum not exceeding 2 per cent of the paid up share capital to the Dividend Equalization Fund until the total amount in such Fund amounts to 9 per cent of the paid up share capital.

(4) No society shall declare a dividend at a rate exceeding that recommended by its committee.

50 — Rate of contribution to educational fund of the State federal society. — Every society which pays a dividend to its members at a rate of 4 per cent or more, shall contribute towards the educational fund of the federal society notified by this Administration, at the following rates, namely: —

- | | |
|--|---|
| (a) If the rate of dividend for any year is 4 per cent. | 1 per cent of the net profits of the year. |
| (b) If the rate of dividend for any year is more than 4 per cent but not more than 5 per cent. | 1¼ per cent of the net profits of the year. |
| (c) If the rate of dividend for any year is more than 5 per cent but not more than 6 per cent. | 1½ per cent of the net profits of the year. |
| (d) If the rate of dividend is more than 6 per cent but not more than 7 per cent. | 1¾ per cent of the net profits of the year. |
| (e) If the rate of dividend is more than 7 per cent but not more than 8 per cent. | 2 per cent of the net profits of the year. |
| (f) If the rate of dividend is more than 8 per cent. | 2¼ per cent of the net profits of the year. |

Provided that, if the net profits of a society for any year do not exceed Rs. 200/- the society shall not be required to contribute anything towards the said educational fund for that year.

51 — Utilisation and investment of reserve fund.

— (1) A society shall in addition to the modes specified in clauses (a) to (d) of section 70, invest or deposit its reserve fund in any one or more of the following permitted modes, namely: —

- (i) In the case of Primary Societies, in the Central Financing Agencies.

- (ii) In the case of Central Co-operative Banks and Urban Banks, in the State Co-operative Bank,
- (iii) In debentures issued by the Apex Land Development Bank or in Government loans, or
- (iv) In any immovable property specified by the Registrar by a general or special order.

Provided that, in the case of a society whose reserve fund is equal to or more than its paid up share capital, the Registrar may, by general or special order, permit that society to invest that portion of the reserve fund which is in excess of its paid up share capital, or a portion thereof, in its business:

(2) No society whose reserve fund has been separately invested or deposited shall draw upon, pledge or otherwise employ such fund except with the sanction of the Registrar previously obtained in writing.

(3) In the case of a society constituted with the object of co-operative housing on a co-partnership basis, the reserve fund may be utilised for expenditure on the maintenance, repair, and renewal of buildings of the society.

(4) In the case of a processing society the reserve fund may be utilised in the acquisition, purchase or construction of lands, buildings and machinery.

52 — Investment of other funds. — (1) A society may invest any of its funds (other than the reserve fund) in any of the modes specified in section 70 when such funds are not utilised for the business of the society.

Explanation — For the purpose of this sub-rule, «business of a society» shall include any investment made by the society in immovable property with the prior sanction of the Registrar in the process of recovery of the society's normal dues or for the purpose of construction of building or buildings for its own use.

(2) The Registrar may, in the case of any society or class of societies, specify by a special or general order the maximum amounts to be invested in any class or classes of securities.

(3) Every society which has invested an amount not less than 10 per cent of its working capital in securities shall be required to constitute an investment fluctuation fund. The Registrar may direct that a specified per cent of the net profits every year shall be credited to the investment fluctuation fund until, in his opinion, the amount of the funds is adequate to cover anticipated losses arising out of the disposal of the securities.

53 — Maintenance and administration of provident fund — A society which has established a provident fund for its employees under section 71 shall, with the previous approval of the Registrar, frame regulations for the maintenance and utilisation of the provident fund for its employees. Among other matters, such regulations shall provide for the following: —

- (i) amount (not exceeding ten per cent of the employees' salary) of contribution to be deducted from the employees' salary;
- (ii) the rate of contribution (not exceeding the annual contribution made by the employee) to be made by the society;

- (iii) advances which may be made against the security of the provident fund;
- (iv) refund of employees' contribution and contribution made by the society;
- (v) mode of investment of the provident fund and payment of interest thereon.

CHAPTER VI

Management of Societies

54 — Prohibition against being interested in contracts, etc. — (1) No officer of a society shall have any interest, directly or indirectly otherwise than as such Officer, —

- (a) in any contract made with or by the society; or
- (b) in any property sold or purchased by the society; or
- (c) in any other transaction of the society, except as investment made or as loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.

(2) No officer of the society shall purchase, directly or indirectly, any property of a member of the society sold for the recovery of his dues to the society.

55 — Disqualification for membership of committee. — (1) No person shall be eligible for appointment or election as a member of the committee of a society, if —

- (a) he is in default to any society in respect of any dues from him, either as a borrower or as a surety for such period as is specified in this behalf in the by-laws of the concerned society, or for a period exceeding three months, whichever is less, or
- (b) he is, in the opinion of the Registrar, persistently and deliberately committing breach of the co-operative discipline with reference to linking up of credit with co-operative marketing or co-operative processing, or
- (c) he has been held responsible under section 79 or 88 or has been held responsible for payment of costs of inquiry under section 85, or
- (d) he does not, when representing individual members in a co-operative bank or a Central Bank or any other society or class of societies, hold such shares as may be laid down in the by-laws of such bank or such society or such class of societies, as the case may be.

(2) A member of the committee of a society shall cease to hold office if he incurs any of the disqualifications mentioned in sub-rule (1).

(3) (i) A member of a society who carries on business of the kind carried on by his society, shall not be eligible to be a member of the committee of that society without the general or special sanction of the Registrar.

(ii) Where any person not eligible to be a member of the committee without the general or special sanction of the Registrar is elected to be a member of such committee without the sanction of the Re-

gistrar, he shall cease to be a member of the committee on receipt by the committee of a written requisition in that behalf from the Registrar.

56 — First general meeting. — (1) Within three months from the date of registration of a society, the Chief promoter thereof, shall convene the first general meeting of all persons who had joined in the application for registration of the society. Where the Chief promoter fails to convene the meeting as aforesaid, it shall be convened by any person authorised in that behalf by the Registrar.

(2) At the first general meeting, the following business shall be transacted: —

- (i) Election of a president for the meeting.
- (ii) Admission of new members.
- (iii) Receiving a statement of accounts and reporting all transactions entered into by the promoter upto 14 days before the meeting.
- (iv) Constitution of a provisional committee until regular elections are held under the by-laws. The provisional committee shall have the same powers and functions as the committee elected in accordance with the by-laws.
- (v) Fixing the limit upto which the funds may be borrowed.
- (vi) Any other matter which has been specifically mentioned in the by-laws.

57 — General meetings — (1) All general meetings of a society excepting the first general meeting shall be convened by the Secretary or any other officer authorised by and under the by-laws to convene such meetings under intimation to the Registrar, who may attend such meetings or authorise some person to attend such meetings on his behalf. The President of the Society or in his absence the Vice-President or, in the absence of both, a member elected by the members present at the meeting shall preside over the meeting unless the by-laws specify that the President of the meeting should be elected by the meeting.

(2) No general meeting shall be held or proceeded with unless the number of members required to form a quorum as specified in the by-laws are present.

(3) The Secretary or any other officer convening the meeting shall read out the notice convening the meeting and the agenda for the meeting and then the subjects shall be taken up for consideration in the order in which they are mentioned in the agenda unless the members present, with the permission of the President, agree to change the order. Unless otherwise specified in the Act, these rules and the by-laws, the resolutions will be passed by a majority of the members present. The President will have a casting vote.

(4) When the members are divided on any resolution, any member may demand a poll. When a poll is demanded, the President shall put the resolution for vote.

(5) Voting may be by show of hands or by ballot as may be decided by the members present at the meeting, unless otherwise specified in the by-laws. Notwithstanding anything contained in the by-laws, election of office bearers of a society having members' share capital in excess of Rs. 10,000 including Government share capital, if any, shall be by ballot.

(6) When voting is to be by ballot, the President shall take necessary steps for the issue of ballot papers and counting of votes.

(7) The result of voting shall be announced by the President.

(8) If all the business in the agenda cannot be transacted on the date on which the general meeting is held, the meeting may be postponed to any other suitable date not later than 30 days from the date of the meeting as may be decided by the members present at the meeting.

(9) The remaining subject or subjects on the agenda shall be taken up for consideration at the postponed meeting.

(10) If the general meeting cannot be held for want of quorum, it shall be adjourned to a later hour on the same day as may have been specified in the notice calling the meeting or to a subsequent date not earlier than seven days and at such adjourned meeting the business on the agenda of the original meeting shall be transacted whether there is a quorum or not.

(11) No resolution regarding expulsion of a member of the society, removal of a member of the committee or amendment of by-laws shall be brought forward in any general meeting, unless due notice thereof is given in accordance with the provisions of the Act, these rules and the by-laws of the society.

58 — Annual statements of accounts including balance sheet, etc. — Within forty-five days of the close of every co-operative year, or within such extended period, as may be specified by the Registrar, in the case of any society or class of societies, the committee of every society shall prepare annual statements of accounts showing, —

- (i) receipts and disbursements during the previous co-operative year,
- (ii) the profit and loss account for the year,
- (iii) the balance sheet as at the close of the year.

These statements of accounts shall be open to inspection by any member during office hours at the office of the society and a copy thereof shall be submitted, within fifteen days from the date of preparation to the auditor appointed by the Registrar for the audit of that society.

59 — Form for the balance sheet and the profit and loss account. — (1) The balance sheet and the profit and loss account to be laid before the annual general meeting of a society by the committee shall ordinarily be in Form «L».

Provided that, it shall be competent for the Registrar to permit a society or class of societies to adopt such other form as he may deem fit.

(2) A copy of the balance sheet and profit and loss account to be presented at the annual general meeting under sub-section (2) of Section 75 and a copy of the report of the committee under sub-section (3) of section 75 shall be fixed on the notice board of the society at least fourteen days before the date fixed for the annual general meeting.

60 — Power to call annual and special general meetings. — If the annual general meeting of a society is not called in accordance with the provisions of section 75 or if the chairman or a majority of the committee of a society fail to call a special general meeting in accordance with the provisions of section 76, the Registrar may authorise any person

subordinate to him or any officer or employee of a federal society to call the annual general meeting or the special general meeting, as the case may be, and such officer or person shall have all the powers and functions of the officer of the society authorised to convene such annual or special general meeting, under its by-laws.

61 — Procedure for appointment, suspension and removal of members of the committee and other officers, etc. — (1) Notwithstanding anything contained in the by-laws of a society but subject to the provisions of section 78, the Registrar may by an order published with reasons therefor, in the Goa, Daman & Diu Gazette.

- (a) remove the committee of a society and appoint a new committee in its place consisting of three or more members of the society, to manage the affairs of the society; or
- (b) remove the committee and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society; or
- (c) remove any member of the committee of a society and appoint in his place such other member as he may deem fit.

(2) Before making any order under sub-rule (1), the Registrar shall consult the federal society to which the society is affiliated and give an opportunity to the committee or the member concerned to show cause, within fifteen days from the date of issue of notice, why such an order shall not be made.

(3) The member appointed under clause (c) of sub-rule (1) shall hold office so long as the member in whose place he is appointed would have held office, if the vacancy had not occurred.

(4) Notwithstanding anything contained in the by-laws regarding holding of any meeting of the society, the Registrar may, by special or general order specify the procedure for holding meetings of the Committee appointed by him under clause (a) of sub-rule (1).

(5) Immediately after the appointment of a new committee or an administrator or administrators under sub-rule (1), the committee in whose place such appointment is made and officers of the society shall give the new committee or the administrator or administrators, as the case may be, the charge of the property, documents and accounts of the society.

62 — Accounts and books to be kept. — Every society shall keep the following accounts and books:

- (1) A register of members including persons nominated under section 38 in Form «G».
- (2) A register of shares.
- (3) A register of debentures and bonds (where capital is raised by debentures and bonds).
- (4) Minute book recording proceedings of general meetings.
- (5) Minutes book recording proceedings of committee meetings.
- (6) Cash book.
- (7) General ledger and personal ledger.
- (8) Stock register.
- (9) Property register.
- (10) Register of audit objections and their rectification.
- (11) Such other accounts and books as from time to time be specified by this Administration by special or general order for any society or class of societies.

63 — Periodical financial statements to be furnished. — All registered societies classified by the Registrar as Central Banks or as Urban Banks with a working capital of more than Rs. 50,000/- shall submit to that officer a quarterly financial statement in the form specified by the Registrar for the quarters ending March 31st, June 30th, September 30th and December 31st, not later than April 15th, July 31st, October 15th and January 15th, respectively.

64 — Registrar's power to enforce performance of obligations. — (1) In addition to the periodical financial statements referred to in rule 63, the Registrar may by special or general order require any society to furnish to him any other returns in such forms as may be specified by him, in the order. The salaried officers of the society shall be responsible for the submission of these returns on due dates. If there are no salaried officers of the society or if the executive functions are attended to by the Chairman or any other member of the committee in an honorary capacity, the returns shall be submitted by the Chairman or such member of the committee.

(2) On failure of the society to furnish any returns on due dates, the Registrar may, after giving due notice to the person or persons responsible for the submission of the same, depute an employee of the Co-operative Department or of the federal society to which the society is affiliated to prepare the return or returns and submit it or them to him. The members of the committee and other officers of the society shall furnish to the employee of the Co-operative Department or of the federal society entrusted with the work, all information necessary for preparing the return or returns. The expenses incurred by the Registrar in getting such return or returns prepared shall be borne by the society and shall be recovered from the society under section 79 as if they were an arrear of land revenue.

65 — Procedure to be adopted for taking possession of books, documents, securities, cash and other properties of society. — (1) Where taking possession of books, documents, securities, cash or other properties of a society is considered necessary and where taking of such possession is resisted or obstructed, the Registrar, the Liquidator or any other person entitled to the same may take or cause to be taken order for seizing the books, documents, securities, cash or other properties of the society, as the case may be, in the manner provided in section 80.

(2) Any person appointed by the Registrar as a Liquidator of a society or any person authorised by the Registrar to audit the accounts of a society under section 81 or any person authorised by the Registrar to hold an inquiry into the constitution, working and financial conditions of a society under section 83 or any person authorised by the Registrar to inspect the books of a society under section 84 shall, in cases where the misappropriation of funds, breach of trust or fraud has been committed or where it is suspected or apprehended that the books, documents, securities, cash or other properties of a society are likely to be tampered with or destroyed or removed, and where taking of possession of such books, documents, securities, cash or other properties is considered necessary, shall follow the same procedure, with the previous permission of the Registrar, as is laid down in section 80 for the purposes of obtaining such possession.

CHAPTER VII

Audit, Inquiry, Inspection and Supervision

66 — Procedure for appointment of auditors and for conducting audit. — (1) The audit of accounts of societies shall be conducted by Departmental auditors or by certified auditors appointed by the Registrar from time to time on such terms and conditions as he deems fit:

Provided that, any society or class of societies notified by the Registrar may get their accounts audited by an auditor selected from the panel of certified auditors maintained by the Registrar and published by him in the Goa, Daman & Diu Gazette.

Explanation 1 — For purposes of this Chapter, audit shall include annual or periodical audit, continuous or concurrent audit and test or super audit and reaudit.

Explanation 2 — For purposes of this rule, «a certified auditor» includes, —

- (a) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, or any other Act for the time being in force.
- (b) a person who holds a Government diploma in co-operative accounts or a Government diploma in co-operation and accountancy, or
- (c) a person who has served as an auditor in the Co-operative Department of the Union Territory or elsewhere in India.

and whose name has been included by the Registrar in the panel of certified auditors maintained and published by him in the Goa, Daman and Diu Gazette at least once every three years.

(2) The audit under section 81 shall in all cases extend back to the last date of the previous audit and shall be carried out upto the last date of the co-operative year immediately preceding the audit or where the Registrar so directs in the case of any particular society or class of societies, such other date as may be specified by the Registrar.

(3) The auditor shall submit an audit memorandum to the society and to the Registrar in the Form specified by the Registrar, on the accounts examined by him and on the balance sheet and profit and loss account as on the date and for the period upto which the accounts have been audited, and shall state whether in his opinion and to the best of his information and according to the explanation given to him, the said accounts give all the information required by the Act in the manner so required and give true and fair view, —

- (i) in the case of the balance sheet, of the state of society's affairs as at the end of the financial year or any other subsequent date upto which the accounts are made up and examined by him and
 - (ii) in the case of the profit and loss account, of the profit or loss for the financial year, or the period covered by the audit, as the case may be.
- (4) The audit memorandum shall state, —
- (i) whether the auditor had obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit;
 - (ii) whether in his opinion proper books of accounts, as required by the Act, these

rules and the by-laws of the society have been kept by the society so far as it appears from the examination of these books; and

- (iii) whether the balance sheet and profit and loss account examined by him are in agreement with the books of accounts and returns of the society.

(5) Where any of the matters referred to in sub-rule (4) are answered in the negative or with a qualification, the audit memorandum shall specify the reasons for the answer.

(6) The audit memorandum shall also contain schedules with full particulars of, —

- (i) all transaction which appear to be contrary to the provisions of the Act, the rules or the by-laws of the society;
- (ii) all sums which ought to have been but have not been brought into account by the society;
- (iii) any material impropriety or irregularity in the expenditure or in the realisation of moneys due to the society;
- (iv) any money or property belonging to the society which appears to the auditor to be bad or doubtful debt, and
- (v) any other matters specified by the Registrar in this behalf.

(7) The summary of audit memorandum as prepared by auditor shall be read out in a general meeting. The audit memorandum together with its accompaniments shall be open to inspection by any member of the society. The Registrar may however direct that any portion of the audit memorandum which appears to him to be of objectionable nature or not justified by facts shall be expunged and the portion so expunged shall not form part of the audit memorandum.

(8) The Registrar may from time to time specify the form or forms in which the statements of accounts and information shall be prepared for audit, by the society.

(9) On completion of his statutory audit, the auditor shall award an audit classification letter to the society whose accounts he has audited in accordance with the instructions issued by the Registrar from time to time. The list of societies to be published under sub-section (3) of section 12 shall also specify the audit class of the society.

67 — Requisition of the federal society for inquiry — Any federal society duly authorised by a resolution of its committee, may submit a requisition to the Registrar to hold an inquiry under section 83 in respect of any society affiliated to it, duly setting out the grounds on which the inquiry is sought. A copy of such requisition shall be supplied to the society in respect of which the requisition is made.

68 — Procedure and principles for the conduct of inquiry and inspection. — (1) An order authorising inquiry under section 83 or inspection under section 84 shall, among other things, contain the following: —

- (a) the name of the person authorised to conduct the inquiry or inspection;
- (b) the name of the society whose affairs are to be inquired into or whose books are to be inspected;

- (c) the specific point or points on which the inquiry or inspection is to be made, the period within which the inquiry or inspection is to be completed and report submitted to the Registrar;
- (d) cost of inquiry;
- (e) any other matter relating to the inquiry or inspection.

(2) A copy of every order authorising inquiry under section 83 or inspection under section 84 shall be supplied to the federal society or societies to which the society in respect of which the order is issued, is affiliated.

(3) If the inquiry or inspection cannot be completed within the time specified in the order referred to in sub-rule (1) the person conducting the inquiry or inspection shall submit an interim report stating the reasons for failure to complete the inquiry or inspection and the Registrar, if he is satisfied, grant such extension of time for the completion of the inquiry or inspection as he may deem necessary or he may withdraw the inquiry or inspection from the officer to whom it is entrusted and hold the inquiry or inspection himself or entrust it to such other person as he deems fit.

(4) On receipt of the order referred to in sub-rule (1) the person authorised to conduct the inquiry or inspection shall proceed to examine the relevant books of accounts and other documents in possession of the society or any of its officers, members, agents or servants and obtain such information or explanation from any such officers, members, agents or servants of the society in regard to the transactions and working of the society as he deems necessary for the conduct of such inquiry or inspection.

(5) The person authorised to conduct the inquiry or inspection shall submit his report to the Registrar, on all the points mentioned in the order referred to in sub-rule (1). The report shall contain his findings and the reasons therefor supported by such documentary or other evidence as recorded by him during the course of his inquiry or inspection. He shall also specify in his report the costs of the inquiry or inspection together with reasons and recommend to the Registrar the manner in which the entire cost or a part thereof may be apportioned, amongst the parties specified in sub-section (1) of section 85. The Registrar shall pass such orders thereon as may be considered just after giving a reasonable opportunity of being heard to the person or persons concerned.

(6) The costs of the inquiry or inspection apportioned by the Registrar under sub-section (1) of section 85 shall be recovered as provided in section 86. The Registrar may direct that such costs or any part thereof shall be paid in the first instance from the funds of the society or in case of inspection, from the amount deposited by the creditor under clause (b) of sub-section (1) of section 84 and then recovered and repaid to the society or the creditor, as the case may be.

69 — Procedure for assessing damages against delinquent promoters, etc., under section 88 — (1) On receipt of a report referred to in section 88 or otherwise the Registrar or any other person authorised by him may make such further inquiries as he may deem necessary regarding the extent to which the person who has taken any part in the organisation or management of a society or any deceased, past

or present officer of the society has misapplied or retained, or become liable or accountable for, any money or property of the society, or has committed misfeasance or breach of trust in relation to the society.

(2) On the completion of the further inquiries under sub-rule (1) where necessary, the Registrar or the person authorised by him shall issue a notice to the person or persons concerned furnishing him or them with particulars of the acts of misapplication, retention, misfeasance or breach of trust and the extent of his or their liability involved therein and calling upon him or them to put in statements in his or their defence within fifteen days of the date of issue of the notice.

(3) On receipt of the statements referred to in sub-rule (2), the Registrar or the person authorised by him, if he is satisfied that there are reasonable grounds for holding the person or persons liable, shall frame charges.

(4) The person or persons concerned shall, after the charges are framed be asked to put in his statement in defence and to indicate the documentary or oral evidence which he would like to produce. The Registrar or the person authorised by him may permit production of other documentary or oral evidence, if considered necessary, subsequently.

(5) The Registrar or the person authorised by him, shall thereafter record the evidence led by the society or the person or persons concerned and take on record the documents proved by them and shall thereafter fix a date for hearing arguments of both the parties.

(6) On the day fixed for hearing under sub-rule (5), the Registrar or the person authorised by him, shall hear the arguments and may pass his final orders on the same day or on any date fixed by him within sixty days from the date on which the hearing was completed. On the date so fixed, the Registrar shall make his final order either ordering repayment of the money or return of the property to the society together with interest at such rate as may be specified by him or to contribute such amount to the assets of the society by way of compensation in regard to misapplication, retention, misfeasance or breach of trust as may be determined or may reject the claim submitted on behalf of the society.

(7) The Registrar or the person authorised by him, may also provide in his order for the payment of the cost of the proceeding under this rule or any part of such cost as he thinks just.

(8) The Registrar or the person authorised by him shall furnish a copy of his order, under sub-rule (6) to the party concerned within ten days of the date on which he makes his final order.

70 — Form of Rectification Report. — On receipt of an order, directing a society or its officers to rectify the defects and remedy the irregularities, issued by the Registrar under section 82 and on receipt of an order issued by the Registrar under section 87, the society shall, subject to the provisions of sub-sections (2) and (3) of section 87, submit to the Registrar a rectification Report in Form «M». The society shall continue to submit such rectification reports to the Registrar till all the defects are rectified or the irregularities are remedied to the satisfaction of the Registrar.

71 — Levy of audit charges and supervision charges. — (1) The Registrar may levy audit charges and supervision charges payable annually on or

before a specified date by all or any class of societies including the societies in liquidation at such rates as may be fixed by him with the approval of the Government of Union Territory of Goa, Daman and Diu. Such charges if not paid by the specified date, shall be recoverable under sub-section (2) of section 155.

(2) The Government of Union Territory of Goa, Daman and Diu may authorise the Registrar to grant total or partial exemption from the payment of audit charges and/or supervision charges assessed to any society or class of societies.

CHAPTER VIII

Disputes and Arbitration

72 — Reference of Dispute—A reference of a dispute under section 91 shall be made in writing to the Registrar in Form «N». Wherever necessary, the Registrar may require the party referring the dispute to him to produce a certified copy of the relevant records on which the dispute is based and such other statements or records as may be required by him, before proceeding with the consideration of such reference.

73 — Appointment of Registrar's nominee or board of nominee. — (1) The Registrar may, by general or special order notified in the Goa, Daman and Diu Gazette, appoint any person to be his nominee for deciding disputes arising in any one or more societies situated in such area and for such period as may be specified in the order.

(2) The Registrar, may, by order in the Goa, Daman and Diu Gazette appoint a board of nominees consisting of two or more nominees appointed under sub-rule (1), for deciding disputes arising in any one or more societies within such area and for such period as may be specified in the order.

(3) Where a board of nominees is appointed under sub-rule (2), one of the nominees on the board shall be appointed by the Registrar to be the Chairman of the board, who shall fix the date, time and place of hearing disputes referred to the board and carry out necessary correspondence in connection with the disposal of such disputes.

74 — Procedure for hearing and decision of disputes. — (1) When any dispute is referred to the Registrar's nominee or to a board of nominees for decision and is not decided by him or it within two months or such further period as the Registrar may allow, the Registrar may withdraw the dispute from the nominee or, as the case may be, the board of nominees and decide the dispute himself or refer it again to another nominee or a board of nominees for decision.

(2) The Registrar or his nominee or the board of nominees shall record in English or in Marathi or in Gujrati or in Konkani or in Hindi the evidence of the parties to the dispute and witnesses who attend; and upon the evidence so recorded, and upon consideration of any documentary evidence produced by either party, a decision in writing shall be given. Such decision shall be pronounced either at once or on some future date of which due notice shall be given to the parties.

(3) Where any party duly summoned to attend the proceeding fails to appear, the dispute may be decided ex-parte.

(4) In deciding the disputes, where there is no unanimous decision, the opinion of the majority of the board of nominees shall prevail. Where the

opinion of the nominees on the board is equally divided, the opinion of the chairman of the board shall prevail.

(5) Any award made, decision given or order passed by the Registrar's nominee or Board of nominees or a person authorised under section 88, shall be sent by him or by the Chairman of the Board with all the papers and proceedings of the dispute to the Registrar within 15 days from the date on which it is made, given or passed.

75 — Summonses, notices, and fixing of dates, place etc., in connection with the disputes. — (1) The Registrar, his nominee, or the Chairman of the board of nominees may issue summonses or notices at least fifteen days before the date fixed for hearing of the dispute requiring:

- (i) the attendance of the parties to the dispute and of witnesses if any; and
- (ii) the production of all books and documents relating to the matter in dispute.

(2) Summonses or notices issued by the Registrar or his nominee or the Chairman of the board of nominees may be served through any employee of the Fazenda or any employee of the Co-operative Department or of a federal society or through the Chairman or secretary of the society or by registered post with acknowledgement due. Every person or society to whom summonses or notices are sent for service shall be bound to serve them within a reasonable time.

(3) The officer serving a summons or notice shall, in all cases in which summons or notice has been served, endorse or annexe or cause to be endorsed on or annexed to, the original summons or notice, a return stating the time when, and the manner in which, the summons or, as the case may be, notice was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the summons or the notice.

(4) The officer issuing the summons or notice may examine the serving officer on oath or cause him to be so examined by Secretary of the Fazenda or other officer through whom it is served and may make such further inquiry in the matter as he thinks fit; and shall either declare that the summons or, as the case may be, notice has been duly served or order it to be served in such manner as he thinks fit.

(5) The mode of serving summonses and notices as laid down in sub-rules (1) to (4) shall mutatis mutandis apply to the service of summonses or notices,—

- (i) issued by the Registrar or the person authorised by him, when acting under section 83, 84 or 88,
- (ii) issued by an auditor, when acting under section 81, or
- (iii) issued by a Liquidator, when acting under section 105.

76 — Investigation of claims and objections against any attachment. — Where any claim or objection has been preferred against the attachment of any property under section 95, on the ground that such property is not liable to such attachment, the Registrar, his nominee or board of nominees shall investigate into the claim or objection and dispose of it on merits:

Provided that, no such investigation shall be made when the Registrar or his nominee or board of no-

minees considers that the claim or objection is frivolous.

77—Procedure for the custody of property attached under section 95.—(1) Where the property to be attached is movable property, other than agricultural produce, in the possession of the debtor, the attachment shall be made by actual seizure and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, or of a Receiver, if one is appointed under sub-rule (2) and shall be responsible for the due custody thereof:

Provided, that, when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once.

(2) Where it appears to the officer ordering conditional attachment under section 95 to be just and convenient, he may appoint a Receiver for the custody of the movable property attached under that section and his duties and liabilities shall be identical with those of a Receiver appointed under Order XL in the First Schedule to the Code of Civil Procedure, 1908 or any other law for the time being in force.

(3) (i) Where the property to be attached is immovable, the attachment shall be made by an order prohibiting the debtor from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge.

(ii) The order shall be proclaimed at some place on, or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous place in the village and where the property is land paying revenue to the Government of Goa, Daman and Diu, also in the office of any officer within those jurisdiction the property is situated.

78—Procedure for attachment and sale of property for realization of any security given by person in course of execution proceedings.—The procedure laid down in rules 77 and 80 shall mutatis mutandis apply for attachment and sale of property for the realisation of any security given by a person in the course of execution proceedings.

79—Issue of proclamation prohibiting private transfers of property.—The Registrar or Liquidator when acting under clause (a) of section 98 shall, at the time of signing a certificate affecting any property, issue a proclamation in Form «O» and in the case of immovable property shall also forward a copy of the proclamation to any officer within whose jurisdiction the property is situated, who shall cause an entry about such certificate to be made in the Record of Rights.

80—Procedure for execution of awards.—

(1) Every order or award passed by the Registrar, or the person authorised by him or his nominee or board of nominees under section 95 or 96 shall be forwarded by the Registrar to the society or to the party concerned with instructions that the society or, as the case may be, the party concerned should initiate execution proceedings forthwith according to the provisions of section 98.

(2) If the amount due under the award is not forthwith recovered, or the order thereunder is not carried out, it shall be forwarded to the Registrar

with an application for execution along with all information required by the Registrar, for the issue of certificate under section 98. The applicant shall state whether he desires to execute the award by a civil court or through the appropriate authority as provided under section 98 or through the Registrar as provided under section 156.

(3) On receipt of such application for execution the Registrar shall forward the same to the proper authority for execution along with a certificate issued by him under section 98 and a proclamation issued under rule 79 in the manner prescribed therein.

(4) Every order passed in appeal under section 97 shall also be executed in the manner laid down in sub-rules (2) and (3).

81—Execution of awards or orders in special cases.—Subject to the provision of section 98, the Registrar, may, by an order in writing specially authorise any officer of the Co-operative Department or any officer of a federal society or a Central Bank, on an application made by it, to call for and send awards or orders obtained by any society for execution. The Society or Societies in respect of which these powers are to be exercised shall be specified in the order.

82—Transfer of property which can be sold—

(1) When in execution of an order sought to be executed under section 98 any property cannot be sold for want of buyers, if such property is in the possession of the defaulter or some person on his behalf, or of some person claiming it under a title created by the defaulter subsequent to the issue of the certificate by the Registrar or Liquidator under clause (a) or (b) of the said section, the officer conducting the execution shall as soon as practicable report the fact to the Court or the appropriate authority or the Registrar, as the case may be, and the society applying for the execution of the said order.

(2) On receipt of a report under sub-rule (1), the society may, within six months from the date of the receipt of the report or within such further period as may for sufficient reasons be allowed in any particular case by the Court or the appropriate authority or the Registrar, submit an application in writing to the Court, the appropriate authority or the Registrar, as the case may be, stating whether or not it agrees to take over such property.

(3) On receipt of an application under sub-rule (2) notices shall be issued to the defaulter and to all persons known to be interested in the property, including those whose names appear in the Record of Rights as persons holding any interest in the property, about the intended transfer.

(4) On receipt of such a notice, the defaulter, or any person owning such property, or holding an interest therein by virtue of a title acquired before the date of the issue of a certificate under section 98, may within one month from the date of the receipt of such notice, deposit with the Court or the appropriate authority or the Registrar, for payment to the society a sum equal to the amount due under the order sought to be executed together with interest thereon and such additional sum for payment of costs and other incidental expenses as may be determined in this behalf by the Court or the appropriate authority or the Registrar, as the case may be.

(5) On failure of the defaulter, or any person interested, or any person holding any interest in

the property, to deposit the amount under sub-rule (4), the Court or the appropriate authority or the Registrar, as the case may be, shall direct the property to be transferred to the society on the conditions stated in the certificate in Form «P».

(6) The certificate granted under sub-rule (5) shall state whether the property is transferred to the society in full or partial satisfaction of the amount due to it from the defaulter.

(7) If the property is transferred to the society in partial satisfaction of the amount due to it from the defaulter, the Court or the appropriate authority or the Registrar, as the case may be, shall on the production by the society of a certificate signed by the Registrar, recover the balance due to the society in the manner laid down in section 98.

(8) The transfer of the property under sub-rule (5) shall be effected as follows:

(i) In the case of movable property —

(a) Where the property is in the possession of the defaulter himself or has been taken possession of on behalf of the Court or the appropriate authority or the Registrar, it shall be delivered to the society.

(b) Where the property is in the possession of some person on behalf of a defaulter, the delivery thereof shall be made by giving notice to the person in possession, directing him to give actual peaceful possession of the property to any other person.

(c) The property shall be delivered to a person authorised by the society to taken possession on behalf of the society.

(ii) In the case of immovable property —

(a) Where the property is growing or standing crop, it may be delivered to the society before it is cut and gathered and the society shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending and cutting and gathering it.

(b) Where the property is in the possession of the defaulter or of some person on his behalf of some person claiming under a title created by the defaulter subsequent to the issue of a certificate under section 98, the Court or the appropriate authority or the Registrar, as the case may be, shall order delivery to be made by putting the society or any person whom the society may appoint to receive delivery on its behalf in actual possession of the property and if need be by removing any person who illegally refuses to vacate the same.

(c) Where the property is in the possession of a tenant or other person entitled to hold the same by a title acquired before the date of issue of a certificate under section 98, the Court or the appropriate authority or the Registrar, as the case may be shall order delivery to be made by affixing a copy of

the certificate of transfer of the property to the society in some conspicuous place on the property and proclaiming to such person by beat of drum or other customary mode at some convenient place, that the interest of the defaulter has been transferred to the society.

(9) The Society shall be required to pay expenses incidental to sale including the cost of maintenance of live-stock, if any, according to such scale as may be fixed by the Registrar from time to time.

(10) Where land is transferred to the society under sub-clause (a) of clause (ii) of sub-rule (8) before a growing or standing crop is cut and gathered, the society shall be liable to pay the current year's land revenue on the land.

(11) The society shall forthwith report any transfer of property under sub-clause (b) or (c) of clause (ii) of sub-rule (8) to the authority to be specified by the Registrar for information and entry in the Record of Rights.

(12) The society to which property is transferred under sub-rule (5) shall maintain for each such defaulter a separate account showing all the expenses incurred including payment to outside encumbrances, land revenue and other dues on the property and all the income derived from it.

(13) The society to which property is transferred under sub-rule (5) shall use its best endeavour to sell the property as soon as practicable to the best advantages of the society as well as that of the defaulter, the first option being always given to the defaulter who originally owned the property.

The sale shall be subject to confirmation by the Registrar. The proceeds of the sale shall be applied to defraying the expenses of the sale and other expenses incurred by the society and referred to in sub-rules (9) and (12) and to the payment of the arrears due by the defaulter under the order in execution, and the surplus (if any), shall then be paid to the defaulter.

(14) Until the property is sold, the society to which the property is transferred under sub-rule (5) shall use its best endeavours to lease it or to make any other use that can be made of it so as to derive the largest possible income from the property.

(15) When the society to which property is transferred under sub-rule (5) has realised all its dues, under the order in execution of which the property was transferred, from the proceeds of management of the property, the property, if unsold, shall be restored to the defaulter.

83 — Payment of expenses of decisions of disputes.

(1) Where the dispute has been referred to the Registrar or his nominee or the board of nominees under section 93, the Registrar may require the party or parties to the dispute to deposit such sum as may, in his opinion be necessary to meet the expenses including payment of fees to the Registrar or his nominee or the board of nominees.

(2) The Registrar or his nominee or the board of nominees shall have power to order the fees and expenses of determining the disputes, to be paid by the society out of its funds or by such party or parties to the dispute, as he or it may think fit, according to the scale laid down by the Registrar, after taking into account the amount deposited under sub-rule (1).

(3) The Registrar may by general or special order specify the scale of fees and expenses to be paid to him or to his nominee or the board of nominees.

CHAPTER IX

Liquidation

84 — Mode of communication of an interim order under section 102. — An interim order under clause (a) or sub-clause (iv) of clause (c) of sub-section (1) of section 102 shall call upon the society in respect of which the order is made to submit its explanation to the Registrar within one month from the date of issue of such order and shall be communicated by registered post (with acknowledgement due) to the society by the Registrar.

85 — Cost of hearing appeal. — No appeal from a member under section 104 shall be entertained unless it is accompanied by Rs. 25/- or such higher amount not exceeding Rs. 500/- as may be directed by the appellate authority as security for the costs of hearing the appeal.

86 — Appointment of Liquidator and the procedure to be followed and powers to be exercised by him. — The following procedure shall be adopted for the appointment of the Liquidator and for the exercise of his powers, namely:

(1) The appointment of the Liquidator shall be notified by the Registrar in the Goa, Daman and Diu Gazette.

(2) As soon as may be after the interim order is issued under section 102, the Liquidator shall take over the custody and control of all the property, effects and actionable claims and books, records and other documents pertaining to the business of the society and continue to hold custody and control thereof until the interim order is vacated.

(3) Where the interim order is vacated, the Liquidator shall take action in accordance with the provisions of sub-section (6) of section 103.

(4) Where the Liquidator received the Registrar's final order confirming the interim order, the Liquidator shall publish by such means as he may think proper a notice requiring all claims against the society to be notified to him within two months of the publication of the notice and shall thereafter proceed to take such further action as he is empowered to take under the Act.

All liabilities recorded in the account books of the society shall be deemed ipso facto to have been duly notified to the Liquidator under this rule.

(5) The Liquidator shall, after settling the assets and liabilities of the society as they stood on the date on which the order for winding up is made, proceed to determine the contribution to be made or remaining to be made to the assets of the society by persons and estates referred to in clause (h) of section 105 and by order call upon each of them to pay the amount specified in the order as contribution and as costs of the liquidation determined under clause (k) of section 105. Every such order shall be submitted for approval to the Registrar, who may modify it or refer it back to the Liquidator for further inquiry or other action or may forward it for execution under section 98.

(6) If the sum assessed against any member is not recovered, the Liquidator may issue subsidiary order or orders against any other member or members to the extent of the liability of each for the

debts of the society until the whole amount due from members is recovered. The provisions of sub-rule (5) shall *mutatis mutandis* apply to such orders.

(7) The Liquidator shall submit a quarterly progress report and such other returns and statements to the Registrar in such forms as the Registrar may require, showing the progress made in the liquidation of the society.

(8) The Liquidator may empower any person, by general or special order in writing, to make collections and to grant valid receipts, on his behalf.

(9) Unless otherwise permitted by the Registrar, all funds in charge of the Liquidator shall be deposited in the Apex State Co-operative Bank, or a Central Co-operative Bank or in the State Bank of India and shall stand in the name of the Liquidator.

(10) The Registrar shall fix the amount of remuneration, if any, to be paid to the Liquidator, the remuneration shall be included in the cost of liquidation which shall be payable out of the assets of the society in priority to other claims.

(11) The Liquidator shall have power to call meeting of members of the society in liquidation.

(12) The Liquidator may submit an application to the Registrar, for the reconstruction of the society under section 19 if he is of opinion that such reconstruction has a reasonable chance of success.

(13) The Liquidator may, at any time, be removed by the Registrar and he shall on such removal be bound to hand over all the property and documents relating to the society in liquidation to such person or persons as the Registrar may direct.

(14) (i) The Liquidator shall not exercise the powers under clauses (c), (d), (e), (f), (g), (h) and (k) of section 105 without the prior approval of the Registrar:

(ii) An appeal against the order of the Liquidator under clauses (a), (b), (i), (j), (l), (m) and (n) of section 105 shall lie to the Registrar.

(15) The Liquidator shall keep such books and accounts as may from time to time be required by the Registrar.

(16) At the conclusion of the liquidation proceedings, a general meeting of the members of the society shall be called. At such meeting the Liquidator shall summarise his proceedings, point out causes of the failure of the society, and report what sum, if any, remains in his possession after meeting all the liabilities of the society as determined under the rules and suggest how the surplus, if any, should be utilised.

87 — Disposal of surplus assets. — Where the Registrar has to divide the surplus assets amongst members of the society which has been wound up, he shall divide them in proportion to the share capital held by each of such members or in any other suitable manner sanctioned by the Government of the Union Territory of Goa, Daman and Diu in special cases.

88 — Interest on amounts due from a society under liquidation. — The creditor of a society, which is being wound up, may apply to the Liquidator, for payment of interest on any debt due from the society upto date of the Registrar's order for winding up. The rate at which interest shall be paid shall be in the case of a Co-operative Bank, permitted by the Registrar to finance societies, the contract rate and in any other case the rate which may be fixed by the Registrar which shall not exceed the contract rate:

Provided, that, if any surplus assets remain after all the liabilities, including liabilities on shares, have

been paid off, further interest on such debts at a rate to be fixed by the Registrar but not exceeding the contract rate may be allowed to the creditors from the date mentioned above upto the date of the repayment of the principal.

89 — Disposal of records of society whose registration is cancelled. — (1) When an order directing a society to be wound up is issued under section 102 and no Liquidator is appointed, the Officers of the society which is wound up shall, within fifteen days of the publication of the order in the Goa, Daman and Diu Gazette, send by registered post or railway parcel, the records and books of the society to the Registrar or to the Assistant Registrar or Deputy Registrar concerned or hand over the same to the local auditor.

(2) As soon as may be after the affairs of a society for which a Liquidator has been appointed have been wound up and an order cancelling the registration is made under section 21, the Liquidator shall forward all the books and records of the wound up society, and all his own papers and proceedings, by railway parcel to the Registrar or the Assistant Registrar or the Deputy Registrar concerned together with an account of his expenses, showing how the balance has been disposed off, and attaching the receipt of the person to whom it was handed over.

(3) All the books and records of a society, whose registration has been cancelled, and the proceedings of liquidation, shall be destroyed by the Registrar or the Assistant Registrar or the Deputy Registrar, as the case may be, after the expiry of two years from the date of the order cancelling the registration of the society.

CHAPTER X

Land Development Banks

90 — Procedure for submission and consideration of applications for loans from Land Development Banks. — (1) All applications for loans from a Land Development Bank shall be made in the form prescribed with the approval of the Registrar. The form shall among other things contain a list of documents which are required to be submitted for purposes of dealing with the application.

(2) Every Land Development Bank shall keep sufficient stock of printed copies of the forms of loan applications and shall supply them to the intending borrower on payment of such fees as may be specified, from time to time, with the approval of the Registrar.

(3) Every Land Development Bank shall specify, from time to time, the name, designation and address of the officer (hereinafter in this chapter referred to as «the Receiving Officer»), who shall receive all loan applications from the intending borrowers.

(4) The application together with copies of necessary documents and the amount of all fees specified with the approval of the Registrar and deposit equivalent to the value of one share of the Bank, shall be submitted by the applicant to the Receiving Officer.

(5) On receipt of an application for loan, the Receiving Officer shall put his initials on the application and mention his designation and the date of receipt of the application.

(6) After an application for loan has been received, the Receiving Officer shall verify whether it contains all the necessary particulars and is accompanied by the necessary documents. If any details

are lacking, he shall get the application completed by the applicant.

(7) Each application shall be entered in the chronological order in the register of applications for loans from the Land Development Bank to be maintained by the Receiving Officer and shall be dealt with in the same order.

(8) Immediately after the application is entered in the register of applications for loans from the Land Development Bank, the Receiving Officer shall forward it to the Assistant Registrar of Co-operative Societies within whose jurisdiction the land in respect of which the application is made is situated (being the person prescribed for the purposes of sub-section (1) of section 118 of the Act, hereinafter in this Chapter referred to as «the Public Enquiry Officer»). The Public Enquiry Officer shall give at least eight days public notice in Form «Q» calling upon all person interested to present their objections to the loan, if any. The notice shall also be given by beat of drum and shall be affixed at the chavdi of the village or villages where the applicant resides and in the limits of which the land or lands proposed to be improved or offered as security for the loan is or are situated. A copy of the notice shall be exhibited in the head office and relevant branch office, if any, of the Land Development Bank concerned and in the office, if any, of the person giving the notice.

If any persons interested fail to appear as stated as required by the aforesaid notice, the questions at issue will be decided in their absence and such persons will have no claim whatsoever against the property for which the loan applied for will be sanctioned till such time as the loan together with interest thereon or any other dues arising out of the loan are paid in full by the loanee.

(9) The Public Enquiry Officer shall consider every objection submitted under sub-section (1) of section 118 in the manner laid down in that section.

(10) The Public Enquiry Officer shall then forward the applications within two days of their disposal to the Land Development Bank concerned. The Land Development Bank may appoint an enquiry officer (hereinafter in this Chapter referred to as «the Enquiry Officer») to enquire into the applications. The Enquiry Officer shall make inquiry by actually visiting the land in which the improvement is proposed to be effected and the lands and other property offered as security. He shall conduct his enquiry in accordance with the form to be prescribed by the land Development Bank, with the approval of the Registrar.

In case the public Enquiry Officer is unable to forward the application within two days, he shall make a report to the Registrar, stating thereunder the reasons therefor and he shall, thereafter act in accordance with such directions as may be issued to him by the Registrar.

(11) The Enquiry Officer may make such other enquiries as may be necessary and shall value the lands according to such formula as may be laid down by the Land Development Bank, with the approval of the Registrar, from time to time, estimate the repaying capacity of the applicant and examine the feasibility and the utility of the proposed improvement. He shall then submit his report stating what amount of loan may be granted to the applicant against what security and for what purpose and the period within which it may be recovered from him. The Enquiry Officer shall complete his enquiry within fifteen days of the date of the receipt of the application by him.

If the Enquiry Officer is unable to complete his enquiry within fifteen days he shall make a report to the Registrar stating therein the reasons therefor and he shall thereafter act in accordance with such directions as may be issued to him by the Registrar.

(12) After completion of the enquiry, the application together with his report shall be submitted by the Enquiry Officer to the Land Development Bank together with the following certificates:

- (a) Certificate regarding outstanding Government dues.
- (b) Any other relevant certificate.

(13) On receipt of the report of the Enquiry Officer under sub-rule (12), the Land Development Bank shall satisfy itself that the inquiry has been properly conducted. If there are any deficiencies, the Bank shall get them completed immediately.

(14) The Land Development Bank may then undertake such further scrutiny as may be necessary and pass final orders within 30 days. Decision shall be communicated to the applicant within 7 days thereafter. In case the final orders are not passed within 30 days, the Bank shall make a report to the Registrar stating therein the reasons therefor and shall thereafter act in accordance with such directions as may be issued to it by the Registrar.

(15) All the applications received by the Land Development Bank shall be disposed of by the Bank within a maximum period of four months. If the Bank is unable to dispose of an application for loan within the period of four months, it shall make a report to the Registrar stating therein the reasons therefor and the Bank shall thereafter act in accordance with such directions as may be issued to it by the Registrar.

(16) In the case of rejection of application for loans, the reasons therefor shall be communicated by the Bank to the applicant. When the loan has been sanctioned, the Bank shall lay down the terms and conditions regarding grant of the loan, regarding payment of instalments, submission of report on the progress of improvement of land and release of subsequent instalments. The applicant shall be asked by the Land Development Bank to remain present at the head office or branch office of the Bank on a date to be fixed for execution of the mortgage deed and for receiving loan or the first instalment thereof. Such date shall not ordinarily be later than 15 days from the date of communication of sanction of loan to the applicant.

(17) The applicant, while receiving the amount of the loan or the first instalment of the loan, shall purchase shares of the Bank to such extent as may be required under the by-laws of the Bank. The Land Development Bank shall issue a receipt to the applicant giving full particulars of the amounts paid by him from time to time.

(18) Failure to comply with any time-limits specified in this rule shall not in any manner affect the validity of the sanction of the loans by a Land Development Bank or by the State Land Development Bank.

91 — Registration of copies of instruments under section 122. — Copies of instruments referred to in section 122, duly certified by the Manager of the Land Development Bank, shall be sent by the Land Development Bank to the Registering Officer concern-

ned within a period of three months from the date of execution of the instruments, by registered post or by hand delivery.

92 — Authority to Land Development Bank to exercise power under section 133 (1) — The authorisation for the purposes of clause (a) of the proviso to sub-section (1) of section 133 shall be granted to the Land Development Bank by the Registrar after hearing the objections, if any, of the mortgagor or mortgagors concerned.

93 — Appointment of Receiver and his powers under section 133 — (1) The Land Development Bank may under circumstances in which the power of sale conferred by section 133 can be exercised, appoint in consultation with the Registrar any person in writing to be a Receiver of the produce and income of the mortgaged property or any part thereof and such Receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any money realised by him, his expenses of management including his remuneration, if any, as fixed and to apply the balance in accordance with the provisions of sub-section (8) of section 69-A of the Transfer of Property Act, 1882 or any other law for the time being in force.

(2) A Receiver appointed under sub-rule (1) may, for sufficient cause and on application made by the mortgagor, be removed by the Land Development Bank.

(3) A vacancy in the office of the Receiver may be filled up by the Land Development Bank as in sub-rule (1).

(4) Nothing in this rule shall empower the Land Development Bank to appoint a Receiver where the mortgaged property is already in the possession of a Receiver appointed by a civil court.

94 — Appointment, qualifications and powers and functions of a Sale Officer under section 133. — A Land Development Bank may, from time to time, by a resolution of its committee, appoint any of its officers or any other person as a Sale Officer, with the approval of the Registrar, for the purpose of effecting sale of mortgaged property under section 133. Such Sale Officer shall exercise the same powers and functions as are conferred upon a Recovery Officer and a Sale Officer under these Rules.

95 — Procedure for distraint and sale of the produce of the mortgaged land and sale of mortgaged property. — The procedure laid down in rule 100 shall mutadis mutandis apply for the distraint and sale of the produce of the mortgaged land and the sale of mortgaged property under sections 132 and 133:

Provided that, in the case of sale of mortgaged property, the notice of demand for the payment of the mortgage money or part thereof, as the case may be, as also the notice for the sale of the mortgaged property in the event of the payment not being made within the time allowed, shall be served upon the mortgagor or each of the mortgagor and also upon the following persons, namely:

- (i) any person who has any interest in, or charge upon, the property mortgaged, or in or upon the right to redeem the same, so far as is known to the Bank.
- (ii) any surety for the payment of the mortgaged debt or any part thereof, and

- (iii) any creditor of the mortgagor who has in a suit for administration of his estate obtained decree for sale of mortgaged property.

The time allowed for payment of the mortgage money or part thereof in the demand notice referred to above, shall be not less than three months after the service of the notice.

96 — Circumstances under which the Land Development Bank or the Trustee may take action under section 133 (2). — (1) If a Land Development Bank fails to take action against a defaulter under sections 129 or 132 or sub-section (1) of section 133, the Registrar may call upon the former to take necessary action within a period of seven days and report compliance. If no report of compliance is received, the Registrar may himself take necessary action as indicated in the aforesaid section and sub-section.

(2) Where necessary action is not taken against the defaulter by the Land Development Bank the Trustee may call upon them to take necessary action within seven days and report compliance. If no such report of compliance is received, the Trustee may himself take the necessary action.

97 — Submission of report for confirmation of sale under section 134 — (1) When the sale of the mortgaged property has been effected by a Land Development Bank under section 133 and the purchase amount has been received from the purchaser, the Bank shall submit a report of the sale immediately to the Registrar as required by sub-section (1) of section 134.

(2) When the sale of the mortgaged property has been effected by the Trustee under section 133 and the purchase amount has been received from the purchaser, the Trustee, as the case may be, shall submit a report of sale immediately to the Registrar as required under sub-section (2) of section 134.

(3) The report referred to in sub-rules (1) and (2) shall contain, amongst other details, the following specific particulars;

- (a) Brief account of the circumstances which rendered the sale necessary;
- (b) full details showing how the provisions of clauses (a), (b), (i) to (iv) and (c) of the proviso to sub-section (1) of section 133 have been complied with;
- (c) full details showing how the procedure laid down in rule 104 for holding the sale of immovable property has been followed;
- (d) name of the Sale Officer;
- (e) place of sale;
- (f) date of sale;
- (g) description of property sold;
- (h) name of purchaser and his address;
- (i) value realised;
- (j) cost of sale; and
- (k) date of receipt of purchase money from the purchaser.

(4) The Registrar may call for any clarification deemed necessary from the Land Development Bank and satisfy himself that the sale has properly been conducted and the Land Development Bank shall furnish the same forthwith. Similarly, the Registrar may call for any clarification from the Trustee for the same purpose and such clarification shall be furnished forthwith by the Trustee as the case may be.

98 — Certificate of purchase. — The certificate to be granted by a Land Development Bank under sub-section (1) of section 136 shall be in Form «R».

99 — Sale of immovable property purchased by a Land Development Bank — (1) The Land Development Bank which has purchased any immovable property sold under Chapter XI of the Act shall, unless otherwise directed by the Trustee, use its best endeavour to sell the property as early as possible to the best advantage of the Bank. The sale shall be effected by public auction within a period of six months from the date of purchase or within such further period as may be permitted by the Trustee.

(2) The date and the place of such public auction shall previously be notified not less than thirty days by —

- (a) advertising the sale of property with full details in one or more local newspapers,
- (b) proclamation of sale by beat of drum in the village where the property is situated,
- (c) publication of sale notice at —
 - (i) A prominent place in the village
 - (ii) the office of the Concelho Administrator or any other authority specified from time to time.
- (iii) the office of the Land Development Bank.
- (iv) the principal office of the Deputy Registrar in the District.

The sale shall be subject to confirmation by the Registrar.

100 — Certain provisions of rule 104 to apply to sale of immovable property under Chapter XI of the Act, — (1) The Provisions of clause (e), (f), (g), (h), (i), (j) and (k) of sub-rule (11) and of sub-rule (12), (13) and (14) of rule 104 shall mutatis mutandis apply to the sale of immovable property under Chapter XI of the Act.

(2) The expenses incidental to such sale or attempted sale shall be calculated in accordance with the scale laid down in that behalf by the Registrar, from time to time.

CHAPTER XI

Appeals, Review and Revision

101 — Qualifications and appointment of President and members of Goa, Daman & Diu Coop. Tribunal. —

(1) The President of the Tribunal shall be a person who has been a Judge of any High Court in India or is a working or retired District Judge, or a person who has for not less than 10 years been an advocate or a pleader, or who has held office of the Registrar or Joint Registrar of Co-operative Societies for not less than three years under any State Govt. or Union Territory in India.

(2) The other members of the Tribunal shall be non-officials closely associated with the co-operative movement; and at least one of them shall be a person who has for not less than ten years been an advocate or a pleader or one having qualifications as in sub-rule (1).

Explanation. — For the purpose of this sub-rule «non-official» shall mean a person who, at the date of his appointment as a member, does not hold any office of profit under the Government of India or the Government of any State or Union Territory.

(3) Notwithstanding anything contained in sub-rules (1) and (2) a person shall be disqualified for being appointed as, or for being President or a member of the Tribunal if he is a member of the committee of any society other than an educational society, a propagandist society or a federal society which is not a business institution.

(4) (a) The President and other members of the Tribunal shall hold office ordinarily for a period of not less than two years and not more than five years as the Government of the Union Territory may by notification in the Goa, Daman and Diu Gazette specify in this behalf.

(b) A person who has held office as the President or a member for a period mentioned in clause (a) shall be eligible for re-appointment.

(c) The President or a member of the Tribunal may at any time resign his office.

(d) The President or a member of the Tribunal may, with the previous permission of the Union Territory Government, hold any other office, appointment or employment not inconsistent with his position on the Tribunal.

(5) Notwithstanding anything contained in sub-rule (4), the Union Territory Government may terminate, at any time, the appointment of the President or a member, if, in its opinion, such President or member is unable or unfit to continue to perform the duties of his office:

Provided that, no appointment shall be terminated under this sub-rule unless the person whose appointment is proposed to be terminated is given a reasonable opportunity of showing cause against such termination.

(i) If any vacancy occurs by leave of absence, deputation, death, resignation, expiry of the period of appointment, termination of the appointment or for any other cause whatsoever, such vacancy shall be filled by a person qualified for appointment under this rule.

(ii) Till the vacancy in the office of the President is filled under sub-rule (i), the senior most member shall act as the President of the Tribunal.

(7) The Headquarters of the Tribunal shall be at Panjim or at such other place as may be notified by the Union Territory Government in the Goa, Daman and Diu Gazette.

102 — Constitution of authority by Union Territory Government to hear appeals which lie to that Government — The appeals which lie to the Union Territory Government under the Act may be heard by such officer as may from time to time be specified by the State Government in this behalf.

103 — Procedure for presentation to and disposal of appeals by Union Territory Government and Registrar under section 152 — (1) An appeal to the Union Territory Government or the Registrar shall be presented by the appellant or by his duly appointed agent to the appellate authority either in person during office hours or sent to it by registered post.

(2) When such an appeal is presented by an agent, it shall be accompanied by a letter of authority of the appellant appointing him as such.

(3) Every appeal shall be accompanied by a certified copy of the order against which the appeal is preferred.

(4) Every appeal shall —

(i) be either type written or hand written in ink legibly;

(ii) specify the name and the address of the appellant and also the name and address of the opponent, as the case may be;

(iii) state by whom the order against which the appeal is preferred was made;

(iv) clearly state the grounds on which the appeal is made;

(v) state precisely the relief which the appellant claims; and

(vi) give the date of the order appealed against.

(5) On receipt of the appeal, the appellate authority shall endorse on it the date of its receipt by it. The appellate authority shall, as soon as possible, examine it and satisfy itself that —

(i) the person presenting it has the authority to do so;

(ii) that it is made within the prescribed time limit; and

(iii) that it conforms to all the provisions of the Act and these rules.

(6) If the appellate authority finds that the appeal presented does not conform to any of the said provisions, it shall make a note on the appeal to that effect and may call upon the appellant or his agent to remedy the defects within a period of seven days of the receipt of the notice to do so or in case the appeal has not been presented within the prescribed time limit to show cause within the said period of seven days why it should not be dismissed as time-barred by the appellate authority.

(7) If the defect is remedied or the cause shown by the appellant or his agent satisfies the appellate authority, the appellate authority may proceed to consider the appeal.

(8) If the appellant or his agent fails to remedy the defects or to show cause to the satisfaction of the appellate authority within the said period, the appellate authority may if the appeal is not presented within the time limit dismiss the appeal as time-barred. In cases where it is considered necessary to give a hearing, the appellate authority may fix a date for hearing of which due notice shall be given to the appellant or his agent.

(9) On the date so fixed, the appellate authority shall go through the relevant papers, hear the appellant or his agent, if present, and pass suitable order on the appeal.

(10) The appellate authority may, at its discretion, adjourn to any other day the hearing of any appeal at any stage.

(11) When the hearing of the appeal is completed, the appellate authority shall announce its judgment forthwith or may fix a date for the same after giving due notice to the appellant or the other parties to the appeal.

(12) Every decision or order of the appellate authority shall be in writing and a copy of the same shall be supplied to the appellant and such other parties as in the opinion of the appellate authority are likely to be affected by the decision or the order.

CHAPTER XII

Miscellaneous

104 — Execution of decrees. — (1) Any society or creditor holding a decree (hereinafter referred to as «the applicant») requiring the provisions of section 156 to be applied, shall apply to the Recovery Officer within whose jurisdiction the debtor resides or the property of the debtor is situated.

(2) Every such application shall be made in the form specified by the Registrar and shall be signed by the applicant and shall be accompanied by deposit, if required, at such scales as may be specified by a general or special order by the Registrar. When an application is submitted on behalf of a society, a copy of the resolution of the committee of the society authorising the applicant to sign the application shall also accompany the application. The applicant may indicate whether he wishes to proceed against the immovable property mortgaged to the applicant or other immovable property or to secure the attachment of movable property.

(3) On receipt of such application, or when the Registrar is proceeding under rule 81, The Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar setting forth the name of the defaulter and the amount due and forward it to the Sale Officer.

(4) Unless the applicant has expressed a desire that proceedings should be taken in a particular order as laid down in sub-rule (2), execution shall ordinarily be taken in the following manner:

- (i) movable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity,
- (ii) if there is no movable property, or if the sale proceeds of the movable property or properties attached and sold are insufficient to meet in full the demand of the applicant, the immovable property mortgaged to the applicant, or other immovable property belonging to the defaulter may be proceeded against.

(5) In the seizure and sale of movable property, the following rules shall be observed:

- (a) The Sale Officer shall, after giving previous notice to the applicant, proceed to the village where the defaulter resides or the property to be distrained is situated and serve a demand notice upon the defaulter if he is present. If the amount due together with the expenses be not at once paid, the Sale Officer shall make the distress and shall immediately deliver to the defaulter a list of inventory of the property distrained and an intimation of place and day and hour at which the distrained property will be brought to sale if the amounts due are not previously discharged. If the defaulter is absent, the Sale Officer shall serve the demand notice on some adult male member of his family, or on his authorised agent, or when such service cannot be effected, shall affix a copy of the demand notice on some cons-

picious part of his residence. He shall then proceed to make the distress and shall fix the list of the property attached on the usual place of residence of the defaulter endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.

- (b) After the distress is made, the Sale Officer may arrange for the custody of the property attached with the applicant or otherwise. If the Sale Officer requires the applicant to undertake the custody of the property, he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the applicant. If the attached property is live-stock, the applicant shall be responsible for providing the necessary food therefor. The Sale Officer may, at the instance of the defaulter or of any person claiming an interest in such property, leave it in the village or place where it was attached, in charge of such defaulter or such person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.
- (c) The distress shall be made after sunrise and before sunset and not at any other time.
- (d) The distress levied shall not be excessive, that is to say, the property distrained shall as nearly as possible be proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.
- (e) If crops or ungathered products of the land belonging to a defaulter are attached, the Sale Officer may cause them to be sold when fit for reaping or gathering or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (f) The Sale Officer shall not work the bullocks or cattle, or make use of the goods or effects distrained, and he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (g) It shall be lawful for the Sale Officer to force open an stable, cow house, granary, godown, out-house or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the Sale Officer to break open or enter apartment in such dwelling house appropriated for the zenana or residence of women except as hereinafter provided.

(h) Where the Sale Officer may have reason to believe that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments appropriated to women which by custom or usage are considered private, the Sale Officer shall report the fact to the officer in charge of the nearest police station. On such report the officer in charge of the said station shall send a police officer to the spot in the presence of whom the Sale Officer may force open the outer door of such dwelling house or break open the door of any room within the house except the room appropriated by women. The Sale Officer may also, in the presence of a police officer, after the notice given for the removal of women within a zenana and, after furnishing means for their removal in a suitable manner if they be women of rank, who, according to the customs or usage cannot appear in public, enter the zenana apartments for the purpose of distraining the defaulter's property if any, deposited therein but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

(i) The Sale Officer shall on the day previous, to, and on the day of, sale cause proclamation of time and place of the intended sale to be made by beat of drum in the village in which the defaulter resides and in such other place or places as the Sale Officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of fifteen days from the date on which the sale notice has been served or affixed in the manner laid down in clause (a):

Provided that, where the property seized is subject to speedy and natural decay, or where the expenses of keeping it in custody is likely to exceed its value, the Sale Officer may sell it, at any time, before the expiry of the said period of fifteen days, unless the amount due is sooner paid.

(j) At the appointed time, the property shall be put in one or more lots, as the Sale Officer may consider advisable, and shall be disposed of to the highest bidder.

Provided that, it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other adequate reasons:

Provided further that, the Recovery Officer or the Sale Officer may, in his discretion, adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (i) shall be made unless the defaulter consents to waive it.

(k) The property sold shall be paid for in cash at the time of sale, or as soon thereafter as the Sale Officer shall appoint, and the purchaser shall not be permitted to carry away any part of the property

until he has paid for it in full. Where the purchaser fails in the payment of purchase money the property shall be resold.

(l) Where the proceeds from the sale of the property exceeds the amount due from the debtor, the excess amount, after deducting the interest and the expenses of process and other charges, shall be paid to the defaulter.

(m) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property attached, pays the full amount due including interest, batta and other costs incurred in attaching the property, the Sale Officer shall cancel the order of attachment and release the property forthwith.

(n) The movable properties exempted from attachment by the proviso to section 60 of the Code of Civil Procedure, 1908 shall not be liable to attachment or sale under these rules.

(6) Where the movable property to be attached is the salary or allowance or wages of a public officer or a railway servant or a servant of a local authority or a firm or a company, the Recovery Officer may, on receiving a report from the sale Officer, order that the amount shall subject to the provisions of section 60 of the Code of Civil Procedure 1908, be withheld from such salary or allowance or wages either in one payment or by monthly instalments as the Recovery Officer may direct and upon receipt of the order, the officer or other person whose duty it is to disburse such salary or allowance or wages shall withhold and remit to the Sale Officer, the amount due under the order or the monthly instalment, as the case may be.

(7) (i) Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the share or interest or charging it in any way.

(ii) Where the property to be attached is a negotiable instrument not deposited in Court, nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Recovery Officer ordering the attachment and be held subject to his further orders.

(iii) Where the property to be attached is in the custody of any Court or Public officer, the attachment may be made by a notice to such Court or officer requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further demands of the Recovery officer issuing the notice:

Provided that, where such property is in the custody of a Court or Recovery Officer of another district, any question of title or priority arising between the applicant and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be left to be determined by such Court or Recovery Officer.

(8) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made, if the decree sought to be attached

ched was passed by the Registrar or by any person to whom a dispute was transferred by the Registrar under section 93 by a nominee or a board of nominees, then by the order of the Registrar.

(ii) Where the Registrar makes an order under clause (i), he shall, on the application of the applicant who has attached the decree, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.

(iii) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in clause (i) shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner for the holder thereof.

(iv) Where the property to be attached in execution of a decree is a decree other than a decree of the nature referred to in clause (i), the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.

(v) The holder of a decree attached under this sub-rule shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.

(vi) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer making an order of attachment under this sub-rule shall give notice of such order to the judgment debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment debtor in contravention of such order after receipt of notice thereof, either through the Recovery Officer or otherwise, shall be recognised so long as the attachment remains in force.

(9) Where the movable property to be attached is:

- (a) a debt due to the defaulter in question,
- (b) a share in the capital of a corporation or a deposit invested therein or,
- (c) other movable property not in the possession of the defaulter, except property deposited in, or in the custody of, any Civil Court,

the attachment shall be made by a written order signed by the Recovery Officer prohibiting, —

- (i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof;
- (ii) in the case of a share or deposit, the person in whose name the share or the deposit may be standing, from transferring the share or deposit or receiving any dividend or interest thereon, and
- (iii) in the case of any other movable property, the person in possession of it from giving it over to the defaulter.

A copy of such order shall be sent, in the case of the debt, to the debtor, in the case of the share or deposit, to the proper officer of the corporation and in the case of any other movable property to the person in possession of such property. As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) matures, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable,

the Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable, its value shall be paid to the Recovery Officer or to the party referred to in clause (c). The person concerned shall place it in the hands of the Recovery Officer as it becomes deliverable to the debtor.

(10) Immovable property shall not be sold in execution of a decree unless such property has been previously attached:

Provided that where the decree has been obtained on the basis of a mortgage of such property it shall not be necessary to attach it.

(11) In the attachment and sale or sale without attachment of immovable property, the following rules shall be observed: —

- (a) The application presented under sub-rule (2) shall contain a description of the immovable property to be proceeded against, sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement of survey, the specification of such boundaries or numbers and the specification of the defaulter's share or interest in such property to the best of the belief of the applicant and so far as he has been able to ascertain it.
- (b) The demand notice issued by the Recovery Officer under sub-rule (3) shall contain the name of the defaulter, the amount due, including the expenses, if any, and the batta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment, the particulars of the properties to be attached and sold or to be sold without attachment, as the case may be. After receiving the demand notice, the Sale Officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family at his usual place of residence, or upon his authorised agent or, if such personal service is not possible, shall affix a copy thereof on some conspicuous part of the immovable property about to be attached and sold or sold without attachment, as the case may be.

Provided that, where the Recovery Officer is satisfied that a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property, the demand notice issued by the Recovery Officer under sub-rule (3) shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

- (c) If the defaulter fails to pay the amount specified in the demand notice within the time allowed, the Sale Officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immovable property noted in the application for execution in the following manner.
- (d) Where attachment is required before sale, the Sale Officer shall, if possible, cause a notice of attachment to be served on the defaulter personally. Where personal

service is not possible, the notice shall be affixed in some conspicuous part of the defaulter's last known residence, if any. The fact of attachment shall also be proclaimed by beat of drum or other customary mode at some place on, or adjacent to, such property and at such other place or places as the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date therein mentioned, the property will be brought to sale. A copy shall be sent to the applicant. Where the sale Officer so directs, the attachment shall also be notified by public proclamation in the Goa, Daman and Diu Gazette.

(e) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the taluka office at least thirty days before the date fixed for the sale and also by beat of drum in the village (on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale). Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the applicant and the defaulter. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible, —

- (i) the property to be sold,
- (ii) any encumbrance to which the property is liable,
- (iii) the amount for the recovery of which sale is ordered, and
- (iv) every other matter which the Sale Officer considers material for a purchaser to know in order to judge the nature and value of the property.

(f) When any immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The applicant shall, when the amount for the realisation of which the sale is held exceeds Rs. 100/-, furnish to the Sale Officer within such time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (10), prior to the date of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the Sale Officer or the Recovery Officer, as the case may be. The sale shall be by public auction to the highest bidder.

Provided that, it shall be open to the Sale Officer to decline to accept the highest bid where the price offered appears to be unduly low or for other adequate reasons.

Provided further that, the Recovery Officer or the Sale Officer may, in his discretion, adjourn the

sale to a specified day and hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than seven days, a fresh proclamation under clause (e) shall be made, unless the defaulter consents to waive it.

The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the Recovery Officer.

Provided that, in cases where an encumbrance certificate is not obtainable owing to the destruction of the connected records, and affidavit from the village Talathi or corresponding officer in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in place of an encumbrance certificate.

(g) A sum of money equal to 15 per cent of the price of the immovable property shall be deposited by the purchaser in the hands of the Sale Officer at the time of the purchase, and in default of such deposit, the property shall forthwith be resold:

Provided that, where the applicant is the purchaser and is entitled to set off the purchase money under clause (k) the Sale Officer shall dispense with the requirements of this clause.

(h) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within fifteen days from the date of sale:

Provided that, the time for payment of the cost of the stamp may, for good and sufficient reasons, be extended at the discretion of the Recovery Officer upto thirty days from the date of sale:

Provided further that, in calculating the amounts to be paid under this clause, the purchaser shall have the advantage of any set off the which he may be entitled under clause (k):

(i) In default of payment within the period mentioned in the last preceding clause, the deposit may, if the Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Union Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

(j) Every resale of immovable property in default of payment of the amounts mentioned in clause (h) within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

(k) Where an applicant purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the Sale Officer shall enter up satisfaction of the decree in whole or in part accordingly.

(12) Where prior to the date fixed for a sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, batta and other expenses incurred in bringing the property to sale, including the expenses of attachment, if any, the Sale Officer shall forthwith release the property after cancelling, where the property has been attached, the order of attachment.

(13) (i) Where immovable property has been sold by the Sale Officer, any person either owning such property or holding any interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer,

(a) for payment to the purchaser, a sum equal to 5 per cent of purchase money,

(b) for payment to the applicant, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount, less amount which may since the date of such proclamation have been received by the applicant.

(ii) If such deposit and application are made within thirty days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser, the purchase money so far as it has been deposited, together with the 5 per cent deposited by the applicant.

Provided that, if more persons than one have made deposit and application under this sub-rule, the application of the first depositor to the officer authorised to set aside the sale, shall be accepted.

(iii) If a person applies under sub-rule (14) to set aside the sale of immovable property, he shall not be entitled to make an application under this sub-rule.

(14) (i) At any time within thirty days from the date of the sale of immovable property, the applicant or any person entitled to share in a rateable distribution of the assets or whose interests are affected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it:

Provided that, no sale shall be set aside on the ground of irregularity or fraud unless the Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

(ii) If the application be allowed, the Recovery Officer shall set aside the sale and may direct a fresh one.

(iii) On the expiration of thirty days from the date of sale, if no application to have the sale set aside is made or if such application has been made and rejected, the Recovery Officer shall make an order confirming the sale:

Provided that, if he shall have reason to believe that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing set aside the sale.

(iv) Whenever the sale of any immovable property is not so confirmed or is set aside, the deposit or the Purchase money, as the case may be shall be returned to the purchaser.

(v) After the confirmation of any such sale, the Recovery Officer shall grant a certificate of sale bearing his seal and signature to the purchaser, and such certificate shall state the property sold and the name of the purchaser.

(15) It shall be lawful for the Sale Officer to sell the whole or any portion of the immovable property of a defaulter in discharge of money due:

Provided that, so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment, if any, and sale.

(16) Persons employed in serving notice or in other process under these rules shall be entitled to batta at such rates as may, from time to time, be fixed by the Recovery Officer.

(17) Where the cost and charges incurred in connection with attachment and sale of movable property or the attachment and sale or sale without attachment of immovable property under this rule, exceeds the amount of the cost deposited by the applicant, such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by the defaulter, as the case may be, and the balance shall be made available to the applicant.

(18) Every person making a payment towards any money due for the recovery of which application has been made under this rule shall be entitled to a receipt for the amount signed by the Sale Officer or other officer empowered by the Recovery Officer in that behalf, such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made.

(19) (a) Where any claim is preferred to, or any objection is made to the attachment of, any property attached under this rule on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claim or objection and dispose it of on merits:

Provided that, no such investigation shall be made when the Sale Officer considers that the claim or objection is frivolous.

(b) Where the property to which the claim or objection relates has been advertised for sale, the Sale Officer may postpone the sale pending the investigation of the claim or objection.

(c) Where a claim or an objection is preferred to the party against whom an order is made may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be final.

(20) (i) Any deficiency of price which may arise on a re-sale held under clause (j) of sub-rule (ii) by reason of the purchaser's default, and all expenses attending such re-sale shall be certified by the Sale Officer to the Recovery Officer and shall, at the instance of either the applicant or the defaulter, be recoverable from the defaulting purchaser under the provisions of this rule. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

(ii) Where the property may on the second sale, sell for a high price than at the first sale, the defaulting purchaser at the first sale, shall have no claim to the difference or increase.

(21) Where any property has been attached in execution of decree but by reason of the applicant's default the Recovery Officer is unable to proceed further with the application for execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

(22) Where assets are held by the Sale Officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decree against the same defaulter have been received from more than one applicant and the applicants have not obtained satisfaction, the assets, after deducting the costs of realisation, shall be rateably distributed by the Sale Officer among all such applicants in the manner provided in section 73 of the Code of Civil Procedure, 1908, or any other law for the time being in force.

(23) Where a defaulter dies before the decree has been fully satisfied, an application under sub-rule (1) may be made against the legal representative of the deceased and thereupon all the provisions of this rule shall, save as otherwise provided in this sub-rule, apply as if such legal representative were the defaulter. Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hand and has not been duly disposed off; and for the purpose of ascertaining such liability, the Recovery Officer executing the decree may, of his own motion or on the application of the applicant, compel such legal representative to produce such accounts as he thinks fit.

105 — Contributions, fees and charges to be credited to Government of the Union Territory — All contributions made under sub-section (2) of section 90, all fees paid under sub-section (3) of section 108 and all charges levied under rule (71) shall be credited to the Government of the Union Territory.

106 — Communication of decision, award, etc. — Any order, decision or award required to be communicated under the Act or these rules, shall, unless otherwise specifically provided in the Act or the rules, be posted to the last address of the party as given by the party under the certificate of posting and under intimation to the society, with instructions to display a copy thereof on its notice board.

FORM «A»

See rule 4 (1)).

Application for Registration of Societies

Place:
Date:

To
The Additional/Joint/Deputy/Assistant/Registrar,* Co-operative Societies, —

We submit herewith a proposal for registration of the following society along with enclosures as indicated below.

2. We also declare that the information given herewith, including that in the enclosures is correct to the best of our knowledge —

- (1) Name of the proposed society**.
- (2) Address to be registered;
- (3) Whether liability is limited or unlimited;
- (4) Area of operation;
- (5) Objects of the society;

- (6) The amount of preliminary expenditure incurred by the promoters till the date of application, and estimate of expenditure likely to be incurred by them thereafter with a view to getting the society registered.
- (7) Language in which the books and account of the society will be kept.

3. We are sending four copies of the proposed by-law signed by the applicants (not less than 10).

Serial No.	Full Name	Whether individual or corporate body	Age	Nationality	Profession
1	2	3	4	5	6
1	Chief Promoter.				
2					
3					
4					
5					
6					
7					
8					
9					
10					

Serial No.	Full Name	Place of residence, village and Taluka.	Amount subscribed to share capital	Whether any other signatory of the application is a member of his family	In the case of representative of society, whether he is a member of the committee of that society
1	2	3	4	5	6

* Strike off whichever is not applicable.
** The name of the society should have any reference to any caste or religious denomination.

Name and address of the person to whom correspondence regarding registration or otherwise should be addressed

Signature —

- 1. Chief Promoter
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

N. B. — In the case of representative of society a copy of the resolution of the committee of that society authorising him to sign on its behalf this application and by-laws should be enclosed with this application.

2. In the case of a corporate body, representative states of the signatory on behalf of the corporate body should be indicated.

3. The expression «Member of family» means a wife, husband, father, mother, grand father, grand mother, step-father, step-mother, son, daughter, step-son, step-daughter, grand-son, grand-daughter, brother sister, half brother, half sister, and wife of brother or half brother.

Enclosures —

- (1) Bank balance certificate.
- (2) List of persons who have contributed to the share capital together with the amount contributed, by each of them and the entrance fee to be paid by them.
- (3) The scheme showing the details as to how the working of the society will be economically sound, and where the scheme envisages the holding of immovable property by the society, giving description of immovable property proposed to be purchased, acquired or transferred to the society.

*(4) A copy of the resolution authorising a member of the committee of the registered society, to sign the application on behalf of the society.

†(5) A copy of the document authorising any person to sign the application on its behalf issued by a firm, company or other corporate body, a society registered under the Societies' Registration Act, 1860 or a public trust registered under any law for the time being in force relating to registration of public trust.

* To be forwarded when any member of the society to be registered is itself a registered society.

† To be forwarded when any member of the society to be registered is a firm, company or other corporate body, a society registered under the Societies' Registration Act, 1860 or a public trust registered under any law for the time being in force relating to registration of public trusts.

Sent by registered post on .../Delivered by hand by ... to in the office of the Assistant Registrar/Deputy Registrar/Joint Registrar/Additional Registrar/Registrar, ...

(Chief Promotor)

Received by registered post/hand delivery on ... by ... in the office of the Assistant Registrar/Deputy Registrar/Joint Registrar/Additional Registrar/Registrar Entered in the register of registration proposals at Serial No. ...

(Signature of the office receiving this Application)

ACKNOWLEDGEMENT

Received Registration proposal No. on ... for the registration of ... Society from the chief promoter Shri ...

Assistant Registrar/Deputy Registrar/Joint Registrar/Additional Registrar/Registrar.

Place:
Date:

FORM «B»
(See rule 5 (1))

Register of applications for Registration received in the office of the Registrar/Additional/Joint Deputy/Assistant/Registrar.

Serial No.	Name of the Proposed society	Place village, Taluka and District	Date of receipt	Date of acknowledgement	How received (by post)	No. and date on which additional information is called
1	2	3	4	5	6	7

Prescribed date by which information is called	Date on which information received	No. and date of the report, if any, sent to Government if the society is not registered within 6 months	No. and date		Initials	Remarks
			Of registration	Of order under which registration is refused		
8	9	10	11	12	13	14

FORM «C»

(See rule 6)

Report to Government

To
The Secretary to Government,
..... Department
Bombay.

Subject: Registration proposal.
Report regarding—

I have received a proposal for registration of ... Society, village, ... taluka ... district ... on ... It may not be possible to dispose of this registration proposal within a period of six months as laid down under section 9 (1) of the Maharashtra Co-operative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu for the following reasons, that is to say, —

- (1) The promoters have not given information called for from them within the specified time.
- (2) The promoters have not been able to collect the share capital which is necessary for the successful working of the society.
- (3) Details regarding immovable property proposed to be purchased/acquired/transferred to the society are not given by the promoters.
- (4) The concurrence of other departments regarding the feasibility of the scheme has not been received.
- (5) The promoters have not been able to give detailed working of the scheme which they propose to implement.
- (6) Any other reasons.

2. In the circumstances, I would request that Government may please be moved to allow me to register the society after above requirement(s) is/are fulfilled within a further period upto

Assistant/Deputy/Joint/Additional Registrar of Co-operative Societies,

Submitted through the Joint/Additional Registrar/Registrar of Co-operative Societies for onward transmission to Government.

N. B. — The reasons for delay to be given in the body of the letter should be self-explanatory. Any other reasons, if any, for the delay in the registering of the society should also be mentioned.

FORM «D»

(See rule 10 (1))

Register of Co-operative Societies registered or deemed to be registered under the Act

Part ...							District ...
Registered Serial No.	Full name and address of the Society	Taluka	Date of registration	File No.	Class of society as per Section	Sub-classes	Page No. of Government Gazette notifying registration
1	2	3	4	5	6	7	8

Initials of Registrar	Date of winding up by the Registrar	Page No. and date of Government Gazette notifying winding up	No. and date of cancellation	Initial of the officer authorised by the Registrar to keep the register	Remarks
9	10	11	12	13	14

(See rule 14 (3).

Notice is hereby given as required by clause (i) of the proviso to sub-section (1) of section 17 of the Maharashtra Co-operative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu by the ... Society registered under No. ... dated ... and having its registered office at ... to all members/creditors/persons interested that the society, after obtaining the approval of the Registrar and a preliminary resolution to that effect having been passed by a special general meeting of the society held on ..., has decided to... society; convert itself into ... society; divide itself into (1) ... (2) ... societies, transfer its assets and liabilities to ... society. The details regarding the transfer of liabilities of the society to be amalgamated, transferred, converted or divided are given in the Schedule given below:

- (1) Name of the society or societies;
- (2) Statement showing the assets and liabilities of the society (to be enclosed);
- (3) Name of members and creditors.

N. B.—Information should be given separately in respect of each society which is affected by the amalgamation, transfer of assets and liabilities or conversion.

- (1) Name of the society;
- (2) Present area of operation;
- (3) Statement showing assets and liabilities (to be enclosed);
- (4) Names of members;
- (5) Names of creditors.

Particulars of (1)	Society
--------------------	---------

- (i) Assets and liabilities which will remain with the society after division (statement to be enclosed).
- (ii) Proposed area of operation.
- (iii) Names of members who will remain with the society.
- (iv) Names of creditors who will remain with the society.

- (i) Assets and liabilities which will remain with the society after division (Statement to be enclosed.
- (ii) Proposed area of operation
- (iii) Names of members who will remain with the society.
- (iv) Names of creditors who will remain with the society.

Any person whose interest is affected by the proposed amalgamation, transfer of assets and liabilities, division or conversion may send his objections, if any, and give intimation of his option to become a member of any of the new societies/to continue his membership in the amalgamated or converted society/to demand payment of share or interest or dues, to the office of the society within one month from the date of his notice.

2. If no option is exercised and if no objection is received within one month, it will be assumed that the interested persons have assented to the decision.

Place:
Date:

Secretary.

By order of the Board/Managing Committee.

(See rule 15 (1))

To

The Registrar of Co-operative Societies,

In the special general meeting of ... Society at ..., Ta-luka ..., District ... called for the purpose of reconstruction of the society, the society has approved a compromise/arrangement with its creditors and/or members on the following lines:

- (1) By reducing the claims of creditors;
- (2) By reducing the value of the share capital;
- (3) By re-valuation of assets.

A detailed scheme worked out on the above lines is closed with a copy of the resolution passed by the special general meeting of the society referred to above.

We would request that the scheme of reconstruction of the society may please be approved and orders issued to that effect.

Chairman/Member/Creditor/Liquidator
... Society.

(See rule 29 and 62 (1))

Register of members

(Section 38 (1) of the Maharashtra Co-operative Societies Act, 1960 as applied to Union Territory of Goa, Daman and Diu).

1. Serial Number ...
2. Date of admission ...
3. Date of payment of entrance fee ...
4. Full name ...
5. Address ...
6. Occupation ...
7. Age on the date of admission ...
8. Full name and address of the person nominated by the member under section 30 (1)...
9. Date of nomination ...
10. Date of cessation of membership ...
11. Reasons for cessation.
12. Remarks ...

[illegible][illegible]

FORM «H»

(See rule 30)

List of Members of ... Society Limited/Unlimited

Serial No.	Full name of the Member	Address	Class of Member

FORM «I»

(See rule 42 (1))

Declaration under rule 45(1)

I, ... of ... am/have become a member of more than one credit society, name of which are given below:

- *(1)
*(2)
*(3)
*(4)

I do hereby declare as required by rule 42 of the Co-operative Societies Rules, 1962, for the Union Territory of Goa, Daman and Diu that I shall borrow only from ...

Place ...

Date ...

Signature.

Witnesses signature.

* Here insert the name of the society.

FORM «J»

(See rule 45(1))

Declaration under section 48

I, ... (age...) residing at ... having been admitted to the membership of ... Society Limited with unlimited liability and being desirous of borrowing loan from the society having borrowed loan from the society before declaration as required by section 48 (a)/48 (b) of the Maharashtra Co-operative Societies Act, 1960, as applied to the Union Territory of Goa, Daman and Diu that I own land specified in the the Schedule, and I hereby as a tenant in create a charge on the said land interest in favour of the society for the payment of the amount of the loan which the society may made and for all future advances, if any, which the society may make to me subject to the maximum amount of Rs. ..., together with interest on such amount of the loan and advances.

SCHEDULE

Name of Village	Name of Taluka	Name of District	Survey No.	Boundaries		Acres	Gunthas
			City Survey No.	South East	North West		

Assessment		Approximate value	Encumbrances, if any		Remarks, if any
Rupees	Naye paise		Nature	Amount	

In witness whereof, I, Shri ... hereunder set my hand this ... day of ... in the year one thousand nine hundred and

Witnesses.

Signed/and delivery by the above named in the presence of:

- (1)
(2)

Applicant's
Borrower's signature.

Attested by

Forwarded with compliments of the Village Officer with a request to include the particulars of the charge ... created under the declaration in the Record of Rights and to return to the society for its record.

Chairman,
Secretary
... Society.

Returned with compliments to the Chairman, ... Society, Limited/Unlimited. The charge created under the declaration is duly included in the Record of Rights on the ... day of ... 19...

Village Officer.

FORM «K»

(See rule 45 (2))

Register of declarations made under section 48 (a) (b)

Serial No.	Date of entry in the register	Name of the Member	Date of declaration	Name of the village in which land is situated

Survey No.		Area		Assesment		Approximate value
City Survey No.						
Plot No.	Plot Hise	Acres	Gunthas	Rupees	Naye paise	

Encumbrances, if any		Amount of maximum loan	Remarks, if any	Initials of the Chairman
Nature	Amount			

FORM «L»
 ((See rule 59 (1))
 Balance Sheet

Instructions in accordance with which liabilities should be made out	Liabilities			Assets			Instructions in accordance with which assets should be made out
	Figures for the previous year		Figures for the current year	Figures for the previous year		Figures for the current year	
1	2	3	4	5	6	7	8
	Rs.		Rs.	Rs.		Rs.	
I. Contributed by Government and by Co-operative societies and different classes of individual members shall be shown separately. Terms of redemption or conversion of any redeemable preference shares should be mentioned.		I. Share Capital-Authorised: shares of Rs. each. Subscribed: (distinguishing between the various classes of capital and stating the particulars specified below, in respect of each class) Shares of each. Less-Calls in arrears Add-Calls in advances. I. A. Subscriptions towards shares.			I. Cash and Bank balances: (a) Cash on hand. (b) Cash in Banks: (i) Current Account. (ii) Saving Banks Account. (iii) Call Deposits on Banks.		I. Fixed deposits and call Deposit with Central Banks and other approved Bankers should be shown under the heading. Investments and not under the heading «Cash and banks balances».
II. (a) Statutory Reserve Fund and other reserves and funds shall be shown separately. (b) Additions and deductions since last Balance Sheet to be shown under each of the specified head. (c) Funds in the nature of reserves and funds created out of nay profits for specific purposes should be shown separately.		II. Reserve Funds and other Funds: (a) Statutory Reserve Funds. (b) Building Funds. (c) Special Development Fund. (d) Bad and Doubtful Debts Reserves. (e) Investment Depreciation Fund. (f) Dividend Equalization Fund. (g) Bonus Equalization Fund. (h) Reserve for overdue interest. (i) Other funds.			II. Investment: (a) Government Securities. (b) Other Trustee Securities. (c) Non-Trustee Securities. (d) Shares of the other Co-operative Societies. (e) Shares, Debentures or Bonds of companies registered under the Companies Act. (f) Fixed deposits.		II. The nature of each investment and the mode of valuation ((cos or market value) should be mentioned. If, the book value of any security is less than the market value, a remark to that effect should be made against each item.
III. Staff Provident Funds and any other insurance or Bonus Funds maintained for the benefit of the employees should be shown separately.		III. Staff Provident Fund:			III. (1) Investment of staff provident Fund. (2) Advances against staff Provident Fund.		III. Quoted and un-quoted securities should be shown separately.
IV. The nature of the security should be specified in the in each case. Where loans have been guaranted by Government or State Co-operative or Central Banks a mention there of such guarantee. Loans from (1) Government, (2) State Co-operative Bank or Central Banks, State Bank		IV. Secured Loans: (a) Debentures. (b) Loans, overdrafts and cash credits from Banks. (c) Loans from Government. (d) Other Secure loans.			IV. Loans and advances: 1. (a) Loans. (b) Overdrafts. (c) Cash credits: (i) against pledge of goods. (ii) against hypothecation of goods. (iii) Clean. (Of which overdue Rs....		IV. In case of Central Banks and other federal societies loans due by societies and individual members should be shown separately.

Instructions in accordance with which liabilities should be made	Liabilities			Assets			Instructions in accordance with which assets should be made out
	Figures for the previous year		Figures for the current year	Figures for the previous year		Figures for the current year	
1	2	3	4	5	6	7	8

Rs.

of India and other Banks should be shown separately.

Rs.

Rs.

Rs.

Rs.

2. Loans due by managing Committee Members Rs. ... Loans due by Secretary and other employees Rs. ...

<p>V.</p> <p>VII. Deposits from Societies and individual should be shown separately.</p> <p>VII.</p> <p>VIII.</p>	<p>V. Unsecured loan:</p> <p>(a) Loans, cash credits and overdrafts from Central Banks.</p> <p>(b) From Government.</p> <p>(c) From others.</p> <p>(d) Bills payable.</p> <p>VII. Deposits:</p> <p>(a) Fixed Deposits.</p> <p>(b) Recurring deposits.</p> <p>(c) Thrift or saving deposits.</p> <p>(d) Current deposits.</p> <p>(e) Deposits at Call.</p> <p>(f) Other deposits.</p> <p>(g) Credits balance in cash credit and overdraft accounts.</p> <p>VIII. Current liabilities and provisions::</p> <p>(a) Sundry creditors:</p> <p>Outstanding creditors:</p> <p>(i) for purchases,</p> <p>(ii) for expenses including salaries of staff, rent, taxes etc.</p> <p>(c) Advances, recoveries the portion for which value has still to be given, viz. unexpired subscriptions, premiums, commission etc.</p> <p>VIII. Unpaid Dividends:</p>	<p>V. Sundry Debtors:</p> <p>(1) Credit Sales.</p> <p>(2) Advances.</p> <p>(3) Others.</p> <p>VII. Current Asset:</p> <p>(1) Stores and spare parts.</p> <p>(2) Loose tools.</p> <p>(3) Stock-in-trade.</p> <p>(4) Works in Progress.</p> <p>VIII. Fixed Assets:</p> <p>(a) Lands and Buildings.</p> <p>(b) Leaseholders.</p> <p>(c) Railway siding.</p> <p>(d) Plants and Machinery.</p> <p>(e) Loose, tools, tackles and other equipments.</p> <p>(f) Deadstock.</p> <p>(g) Furniture and fittings.</p> <p>(h) Live-stock.</p> <p>(i) Vehicles. etc.</p> <p>VIII. Miscellaneous expenses and losses:</p> <p>(1) Goodwill.</p> <p>(2) Preliminary expenses.</p> <p>(3) Expenses connected with the issue of shares</p>	<p>VI. Mode of valuation and stock shall be stated and the amount in respect of raw materials partly finished and finished goods and stores equipped or consumption should stated separately Mode of valuation of works in progress shall be stated.</p> <p>VIII. Under each head the original cost and the additions there to and deductions there from made during the total depreciation on written of or provided up to the end of the year should be stated.</p>
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Instructions in accordance with which liabilities should be made	Liabilities			Assets			Instructions in accordance with which assets should be made out
	Figures for the previous year		Figures for the current year	Figures for the previous year		Figures for the current year	
1	2	3	4	5	6	7	8
	Rs.		Rs.	Rs.		Rs.	
					and debentures including inderwriting charges, brokerage, etc.		
					(4) Deferred revenue expenditure.		
IX.		IX. Interest accrued due but not paid.			IX. Other Items:		
					(a) Prepaid expenses.		
					(b) Interest accrued but not due.		
					(c) Other items (to be specified).		
X.		X. Other liabilities (to be specified).			X. Profit and Loss Account:		
					Accumulated Losses not written off from the reserve or any other fund.		
XI. Contingent liabilities which have not been provided for should also be mentioned in the Balance Sheet by way of a foot-note.		XI. Profits and Loss Account:			XI. Current Losses:		
		Profits for last year. Less-Appropriations. Add-Current profits.					

PROFIT AND LOSS ACCOUNT

Last year's figures	Expenditure	This year's figures	Last year's figures	Income	This year's figures
Rs. n.P.		Rs. n.P.	Rs. n.P.		Rs. n.P.
	(1) Interest:			(1) Interest Received:	
	(a) Paid Rs.			(a) On loans and Advances.	
	(b) Payable Rs.			(b) On investment.	
	(2) Bank Charges.			(2) Divident received on shares.	
	(3) Salaries and Allowances of staff.			(3) Comission.	
	(4) Contribution to staff Provident Fund.			(4) Miscellaneous Income —	
	(5) Salaries and Allowances of Managing Director.			(a) Share Transfer fees.	
	(6) Attendance fees and travelling expenses of Directors and Committee Members.			(b) Rent.	
	(7) Travelling expenses of staff.			(c) Rebate in Interest.	
	(8) Rent, rates and taxes.			(d) Sale of forms.	
	(9) Postage, Telegram and Telephone Charges.			(e) Other items.	
	(10) Printing and Stationery.			(5) Land Income and Expenditure accounts.	
	(11) Audit fees.				
	(12) (Contingencies) General expenses.				
	(13) Bad Depts Written off or provision made for bad debts.				
	(14) Depreciation on fixed assets.				
	(15) Land Income and Expenditure Account.				
	(16) Other items.				
	(17) Net Profit carried to Balance Sheet.				

Note. — In the case marketing societies, consumers' societies and similar other societies which have undertaken trading activities, the Profit and Loss Account shall be divided into two parts showing separately the trading account and the Profit and Loss Account. In case of producers' societies, processing societies, forest labourers' societies and other societies which have undertaken production activities, the manufacturing account shall also be prepared in addition.

The Schedule

The said property is transferred to the society in ful/partial satisfaction of the amount due to it from the debtor.

Given under my hand and seal of the Court/Collector/Registrar this ... day of ... 19...

Court/Collector/Registrar of Co-operative Societies

In the case of movable property:

(The form shall be similar with necessary changes as regards the description and this delivery of the property).

FORM «Q»

(See rule 90 (8))

Public Notice under rule

Whereas Shri ...resident of ... has applied for loan for the purpose of (specify purpose) ..., a purpose mentioned in section 111 of the Maharashtra Co-operative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu from the'...

Lands in which improvement is proposed to be effected.

Name of the Village Survey Assessment No.

Lands proposed to be offered as security.

Name of the Village Survey Assessment No.

... Land Development Bank, Limited, ... and has proposed to offer as a security for the loan, the lands mentioned in the margin:

Notice is hereby given that objections, if any to the grant of loan from all persons interested will be heard by the undersigned at ... O'clock on ... 19... at ...

Any person wishing to submit any objection should appear in person at the above mentioned time and place before the undersigned together with any documents he wants to produce in support of his objections.

It is hereby notified for the information of all persons interested that according to the provisions of section 119 of the Maharashtra Co-operative Societies Act, 1960, as applied to the Union Territory a written order by the Land Development Bank or person or committees authorised under the by-laws of the Bank to make loans for all or any of the purposes specified in section 111, granting either before or after the commencement of the said Act, a loan to or with the consent of person mentioned therein, for the purpose of carrying out the work specified therein for the benefit of the land or for the productive purpose mentioned therein, shall for purposes of the said Act, be conclusive of the following matters, that is to say —

(a) that the work described or the purpose for which the loan is granted, is an improvement or productive purpose, as the case may be, within the meaning of section 111;

(b) that the person had at the date of the order a right to make such improvement or incur expenditure for productive purpose, as the case may be; and

(c) that the improvement is one benefiting the land specified and productive purpose concerns the land offered is security, or any part thereof as may be relevant.

If any persons interested fail to appear as stated as required by this notice, the questions at issue will be decided in their absence and such persons will have no claim whatsoever against the property for which the loan applied for, will be sanctioned till such time as the loans together with interest thereon or any other dues arising out of the loan are paid in full by the loanee.

Dated this day of ... 19 .

(Signed) ...

DESIGNATION OF OFFICER

Copy forwarded with compliments to the Talathi or other corresponding officer ... village and the ... Land Development Bank Limited, ... with a request to affix this notice at the village chavdi and head office and relevant branch office of the Bank immediately and inform the undersigned accordingly by ...

FORM «R»

(See rule 98)

Certificate to be granted to the purchaser of the property under section 136 (1) of the Maharashtra Co-operative Societies Act, 1960 as applied to the Union Territory of Goa, Daman and Diu.

This is to certify that the following property:

Serial No.	Survey No.	Boundaries	Village	Taluka	District	Name of the mortgagor who held the land
1	2	3	4	5	6	7
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

Has been sold to ... at ... in public auction of the property held under section 133 (1) of the Maharashtra Co-operative Societies Act, 1960, as applied to the Union Territory on ... for Rs. ... and the said ... has been declared to be the purchaser of the said property at the time of the sale. The sale price of the said property was received on ... by the ... Land Development Bank, Limited The sale was confirmed under section 134 of the Act and became absolute on ...

(Signature) ...

Secretary/Manager.

Land Development Bank, Limited.

THE LIEUTENANT GOVERNOR

T. Sivasankar

Panjim, 26th January, 1963.